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BEFORE THE ARIZONA CORPORATIC

IN THE MATTER OF THE APPLICATION)
 OF BLACK MOUNTAIN SEWER CORPORATION,)
 AN ARIZONA CORPORATION, FOR A)
 DETERMINATION OF THE FAIR VALUE OF)
 ITS UTILITY PLANT AND PROPERTY AND)
 FOR INCREASES IN ITS RATES AND)
 CHARGES FOR UTILITY SERVICE BASED)
 THEREON.)

DOCKET NO.
 SW-02361A-08-0609

PUBLIC COMMENT
 AND
 EVIDENTIARY
 HEARING

At: Phoenix, Arizona
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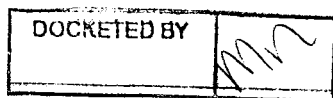
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12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

PAGE

PUBLIC COMMENT	10
OPENING STATEMENTS	
MR. SHAPIRO	44
MR. CHENAL	52
MR. WAKEFIELD	54
MS. WOOD	62
DR. DOELLE	68
MR. SCHIRTZINGER	73
MR. TORREY	81

INDEX TO EXAMINATIONS

PAGE

WITNESS	
DR. DENNIS E. DOELLE, D.D.S.	
Examination by ALJ Nodes	87
Cross-Examination by Mr. Shapiro	95
Further Examination by ALJ Nodes	97
MR. GREGORY SCOTT SORENSEN	
Direct Examination by Mr. Shapiro	99
Cross-Examination by Mr. Wakefield	104
Cross-Examination by Ms. Wood	126
Cross-Examination by Dr. Doelle	149
Examination by ACALJ Nodes	152
Cross-Examination by Mr. Torrey	156
Further Examination by ACALJ Nodes	174
Continued Cross-Examination by Mr. Torrey	182
Further Examination by ACALJ Nodes	187
Further Cross-Examination by Mr. Wakefield	203
Further Cross-Examination by Ms. Wood	207
Redirect Examination by Mr. Shapiro	211

1 INDEX TO EXHIBITS

2

3	NO.	DESCRIPTION	IDENTIFIED	ADMITTED
4	Doelle-1	Intervenor's Testimony	87	98
5	Doelle-2	Direct Testimony of Dennis Doelle	88	98
6	Doelle-3	Surrebuttal Testimony	88	98
7				
8	A-1	Direct Testimony of Greg Sorensen, December 19, 2008	100	103
9				
10	A-2	Rebuttal Testimony of Greg Sorensen, October 20, 1009	101	103
11				
12	A-3	Rejoinder Testimony of Gregory S. Sorensen, November 16, 2009	102	103
13				
14	BHOA-1	Decision 69164, Opinion and Order	105	126
15				
16	BHOA-2	Wastewater Treatment Agreement between the City of Scottsdale and Boulders Carefree Sewer Corporation	116	126
17				
18	BHOA-3	Effluent Delivery Agreement between The Boulders Carefree Sewer Corporation and Boulders Joint Venture	120	126
19				
20				

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22

23

24

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1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before the
3 Arizona Corporation Commission, in Hearing Room 1 of said
4 Commission, 1200 West Washington Street, Phoenix, Arizona,
5 commencing at 9:31 a.m., on the 18th day of November,
6 2009.

7

8

9 BEFORE: DWIGHT D. NODES, Assistant Chief Administrative
10 Law Judge

11

12

13 APPEARANCES:

14 For the Applicant:

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18 For the Arizona Corporation Commission Staff:

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20 Staff Attorney, Legal Division
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Phoenix, Arizona 85007

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2 RIDENOUR, HIENTON & LEWIS
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5 For the Town of Carefree:

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10 For Dr. Dennis Doelle:

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14 M. M. Schirtzinger, In Propria Persona
15 34773 North Indian Camp Trail
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18 GARY W. HILL, RPR
19 Certified Reporter
Certificate No. 50812

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1 ACALJ NODES: Good morning to everyone. Before
2 we get started with the actual proceeding, given that
3 there are so many members of the public here, I just
4 wanted to go through a few things and let people know the
5 process that we go through here.

6 First of all, my name is Dwight Nodes. I'm the
7 Administrative Law Judge assigned to this case, and I will
8 be handling the evidentiary hearing as well as the public
9 comment that we're going to take this morning. It looks
10 like we have plenty of room in the hearing room. There is
11 some overflow down the hallway if anyone wants to go into
12 that room to view the proceedings.

13 The way this will go this morning, as all of
14 you, I'm sure, are aware, this is a hearing scheduled in
15 the Black Mountain Sewer case, rate case, and the process
16 is, once we go on -- we're on the record now, but once we
17 are ready to get started, I'll take appearances of the
18 counsel for the various parties, and then we will move to
19 public comment.

20 And what I'll do is ask each of you in the order
21 in which you signed up on the little sheets, although I
22 think we have some of the public officials who were
23 scheduled to go first, and I'll call your names. If you
24 would, come up to the microphone at the podium and just
25 clearly state your name and, if you would, spell your last

1 name for the court reporter so that the court reporter can
2 take down all of the information that you state in your
3 public comment.

4 And the way the Commission proceeding works is,
5 once we have taken public comment from anyone who is
6 interested in giving that comment, we will take opening
7 statements from the counsel for the various parties, and
8 then we will move into the evidentiary portion, probably
9 this afternoon, I'm guessing; and that will involve
10 witnesses taking the stand, being cross-examined under
11 oath by all the parties who are interested. And then once
12 the record, once we finished that portion of the hearing,
13 and that may take several days. We are scheduled to go
14 into next week. Once that is finished, we will take post-
15 hearing legal briefs by all the counsel, and then I will
16 prepare a recommended order for consideration by
17 Commissioners.

18 We have five elected Commissioners in the State
19 of Arizona, and once the recommended order goes out,
20 parties to the case will have an opportunity to file
21 exceptions to that. The Commission will then schedule the
22 matter for an Open Meeting. At that point, the
23 Commissioners discuss the case. They may wish to do
24 amendments to my recommended order. And ultimately, the
25 Commissioners by majority vote, vote to pass or reject or

1 amend the recommended order. And then that would be the
2 final decision of the Commission subject to any subsequent
3 appeals.

4 So just to give everyone a little flavor of how
5 these rate proceedings work, I just wanted to give you
6 that background.

7 It appears that for some reason we don't have
8 the Commission Staff here yet, and so what I would like to
9 do is, given that they're not here, I think we'll just
10 take about a two or three-minute break here, let Staff
11 counsel and the staff people get into position; and then
12 I'll come back in a few minutes, and we will be ready to
13 start this proceeding.

14 Well, there they are now right on cue. Well,
15 then we're not going to take a two to three-minute break.
16 We're going to get right into it.

17 Okay. Anyone who wants to give public comment
18 who has not previously signed up, the Consumer Services
19 folks are out in the hallway. If you would just fill out
20 one of these slips indicating your desire to speak or not
21 to speak, as the case may be.

22 All right. We're on the record. This is the
23 Black Mountain Sewer rate case. It's 08-0609. Again my
24 name is Dwight Nodes, the Administrative Law Judge
25 assigned to the case. I'll take appearances, first on

1 behalf of the applicant, Black Mountain Sewer Company.

2 MR. SHAPIRO: Good morning, Judge Nodes. Thank
3 you. Jay Shapiro from Fennemore Craig on behalf of the
4 applicant, Black Mountain Sewer Corporation. With me
5 today at the counsel table on behalf of the Company is
6 Mr. Greg Sorensen.

7 ACALJ NODES: Very well. On behalf of the Town
8 of Carefree.

9 MR. CHENAL: Good morning, Your Honor. Tom
10 Chenal, Sherman & Howard, Town Attorney for Carefree.
11 With me is the mayor of Carefree, Mayor David Schwan.

12 ACALJ NODES: Let's see, on behalf of the
13 Boulders HOA.

14 MR. WAKEFIELD: Good morning, Judges Nodes.
15 Scott Wakefield of Ridenour, Hienton & Lewis on behalf of
16 Boulders Homeowners Association.

17 ACALJ NODES: On behalf of the Residential
18 Utility Consumer Office.

19 MS. WOOD: Good morning, Your Honor. Michelle
20 Wood on behalf of RUCO. With me today is Rodney Moore and
21 William Rigsby.

22 ACALJ NODES: Is Mr. Schirtzinger here, the
23 intervenor individual?

24 (No response.)

25 ACALJ NODES: And Dr. Doelle on behalf of

1 yourself?

2 DR. DOELLE: That's correct.

3 ACALJ NODES: You want to enter an appearance?

4 DR. DOELLE: D-O-E-L-L-E, for the record.

5 ACALJ NODES: And on behalf of Staff?

6 MR. TORREY: Your Honor, Kevin Torrey on behalf
7 of Commission Staff, and I can assure you that my clients
8 will appear timely.

9 ACALJ NODES: Okay. Very well.

10 What I would like to do then is begin the public
11 comment. I have a number of slips here, and everyone will
12 be given an opportunity to be heard. I would ask that you
13 try to be somewhat brief, concise. Speak slowly and
14 clearly so the court reporter can transcribe your
15 comments, and I'll start calling these public comment
16 witnesses now.

17 The first one is David Schwan, the Mayor of
18 Carefree. Good morning, Mr. Mayor.

19 MAYOR SCHWAN: Your Honor, my name is David
20 Schwan, S-C-H-W-A-N, and I am the mayor of Carefree. I
21 would like to thank the Arizona Corporation Commission for
22 helping the Boulders, the sewer company and the Town
23 address problems in 2005, 2006. Now we come back with a
24 different problem, and we ask your help in solving that.

25 After talking to the residents and the

1 homeowners association and the sewer company, my
2 predecessor, Wayne Fulcher and I have become convinced
3 that removing the sewer plant from the Boulders is the
4 right thing to do for our citizens.

5 The Town of Carefree supports closing and
6 removing this sewer plant. The citizens and the HOA have
7 convinced me that this plant is old, operating
8 ineffectively, and fundamentally it is in the wrong place.

9 Citizens are affected by problems of odor and
10 noise. Black Mountain Sewer, the Boulders HOA, and
11 Carefree have worked together to find a solution. That's
12 basically to remove the plant and then send the sewage
13 down the hill to Scottsdale and its processing facility.

14 I'm pleased to note that we believe this
15 solution can be implemented at minimal cost to Black
16 Mountain Sewer. Removing the plant is estimated to cost
17 about 1.5 million dollars. After the land is remediated
18 and the plant removed, then the land can be sold as
19 building lots, and we estimate that the income from that
20 sale will roughly be just a bit less than the cost to do
21 the plant.

22 I urge the Commission to accept this proposal to
23 remove the Black Mountain Sewer plant in the Boulders.
24 Thank you, Your Honor.

25 ACALJ NODES: And Mayor Schwan, is it your

1 understanding that, in general, not just the members of
2 the HOA, but the Town, the residents of the Town in
3 general support the closing of the plant pursuant to the
4 agreement with the Boulders HOA?

5 MAYOR SCHWAN: I think it's a good thing for the
6 entire Town of Carefree to fix this problem. Whenever we
7 have a large number of citizens affected by a situation
8 like this, it's difficult for the entire Town, and
9 eventually it affects everyone in the town. So yes, I
10 believe the citizens would support this.

11 ACALJ NODES: Thank you very much, and we
12 appreciate you coming down today to offer your comments.

13 MAYOR SCHWAN: Thank you, Your Honor.

14 ACALJ NODES: Okay, next is Ted Wojtasik. I
15 hope I have pronounced that correctly.

16 MR. WOJTASIK: Perfect.

17 ACALJ NODES: All right. Could you just state
18 your name and spell your last name for the record.

19 MR. WOJTASIK: Sure, Ted Wojtasik,
20 W-O-J-T-A-S-I-K. I'm the community manager for the
21 Boulders Homeowners Association. I would like to take
22 this opportunity to thank Your Honor and the Commission to
23 let us at the Boulders have this opportunity, to hear us
24 and hear our grievances and our complaints regarding the
25 wastewater treatment plant.

1 I would like to first say, as the community
2 manager for these past three years, I've been privy to
3 quite a few complaints from homeowners over that period of
4 time. On average, during the winter months, from roughly
5 October until April of every year is when the problems
6 with odor and noise seem to be most predominant. During
7 those time periods, the complaints that I do receive from
8 the homeowners are usually quite large and on average
9 about two per day.

10 Now even though there's only about two per day
11 that I do receive, most of these homeowners have lived
12 with this problem for several years, going back 20 or more
13 years with these problems. As a result, these homeowners
14 have been complaining for quite a long time; and because
15 of these complaints and really not a whole lot happening
16 in that time period, there becomes a level of frustration;
17 and as a result of that level of frustration, people just
18 stop complaining over a period of time, feeling that their
19 complaints are falling on deaf ears, so to speak. So even
20 with that taken into consideration, I still get several
21 complaints on a daily basis that do accumulate in my
22 office.

23 And so we are hoping, and it is our desire that
24 the ACC does hear our plight and gives us the opportunity
25 to remove and remedy this wastewater treatment plant and

1 take care of these problems once and for all. Thank you
2 very much.

3 ACALJ NODES: Thank you very much, Mr. Wojtasik.
4 Appreciate your comments.

5 Next is Edward Sambuchi. And if I mispronounce
6 anyone's name, I apologize.

7 MR. SAMBUCHI: My name is Edward
8 S-A-M-B-U-C-H-I. My wife Peggy and I have owned a home in
9 Boulders for 20 years. We've been full-time residents for
10 seven years. I'm an engineer by education and worked as
11 an engineer for many years during my professional career.
12 I've been on the homeowner board for six years, and during
13 that time I was in charge of road repairs, road
14 maintenance and utilities. So I've worked very closely
15 with Black Mountain Sewer on many of the repairs that have
16 been made recently.

17 We moved to the Boulders because we loved the
18 natural beauty of the community and the fact that I could
19 play golf 365 days a year, which I do. I also play very
20 early in the morning between 7:00 and 8:00 in the morning,
21 I am passing the wastewater treatment plant on two
22 different occasions. And every time I do, I'm reminded of
23 the line in the movie Good Morning, Vietnam when Robin
24 Williams says, "There's nothing like the smell of napalm
25 in the morning." Except with us, it's nothing like the

1 smell of the sewer plant in the morning, because it is
2 extremely strong and irritating.

3 When we have guests with us, we think of various
4 ways to apologize for the third world conditions in a
5 first class resort. We appreciate everything the
6 Commission has done to date regarding the wastewater
7 treatment plant; but unfortunately, it's resulted in
8 tearing up our newly paved roads, required maintenance
9 trucks to frequently be in the community, chemical trucks
10 to frequently drive through the community, and fairly
11 disrupting some of our normal traffic.

12 Although previous efforts have improved the
13 condition, it's a long way from solving it because of the
14 condition at the plant itself. Continuing to do patchwork
15 repairs, in my opinion, is throwing good money after bad,
16 because I believe it is impossible to sufficiently reduce
17 the noise and odors from the plant to make living here
18 bearable.

19 I know that many people consider people who live
20 in the Boulders to be privileged, and we are; but nobody,
21 regardless of their state in life, should be subjected to
22 this environment.

23 I respectfully urge the Commission to fully
24 recognize the magnitude of the problem we are facing and
25 to work with us to decommission the plant. As a citizen

1 and payer of our utility bills, we recognize there's going
2 to be an increase in our costs, and we are willing to
3 support this. Thank you very much.

4 ACALJ NODES: Mr. Sambuchi.

5 MR. SAMBUCHI: Yes.

6 ACALJ NODES: Do you believe based on everything
7 you have come to understand about the situation there that
8 the closing of the plant will remedy the remaining odor
9 issues? In other words, the issue that came up in the
10 last proceeding, I think as you're probably well aware,
11 was there was some discussion about odors seemed to be
12 emanating from an old lift station as well as the
13 underground sewer lines.

14 MR. SAMBUCHI: Yes.

15 ACALJ NODES: And I understand the Company took
16 a number of actions to attempt to remedy the odor issues
17 in the Boulders community, and that obviously, from what
18 we're hearing, did not take care of all the odor problems,
19 which now you've moved on to the next stage.

20 So, I guess I would just ask for your comments
21 on that.

22 MR. SAMBUCHI: My comments are these. The
23 magnitude of the odors has decreased significantly along
24 Boulder Drive and Quartz Valley which was emanating from
25 the manholes and problems with the infrastructure since

1 they did the repairs a couple of years ago.

2 However, the focus is now on the plant itself.

3 I have to tell you, when I drive my golf cart -- and I
4 know this sort of sounds frivolous -- between the first
5 hole and the second hole on the north course, you have to
6 hold your breath. The odor is still coming from the
7 plant. It's extremely strong. The odors coming from the
8 manholes, although sometimes still exists, have reduced
9 significantly, and we are very grateful to Black Mountain
10 Sewer and the engineering firms that work with them for
11 addressing that part of the problem. But the next part of
12 the problem has to be the plant.

13 ACALJ NODES: Okay. Very well. Thank you for
14 your time and comments.

15 Next is, I believe it's Marilyn Courier.

16 MS. COURIER: Good morning, Your Honor. My name
17 is Marilyn Courier, C-O-U-R-I-E-R. My husband Ernest and
18 I live at 1043 Boulder Drive, just three doors east of the
19 Boulders sewer plant. I'm here today to speak to you
20 regarding the decommissioning and removal from our
21 community of Boulders Wastewater Treatment Plant.

22 There are several good reasons why this should
23 be done. But I will concentrate on the complaints filed
24 with the ACC and the attempts made by the Black Mountain
25 Company to remedy the situation.

1 As secretary of Boulders Homeowners Association,
2 I spoke before you on June 7, 2006, in regards to Black
3 Mountain Sewer Company's application for a rate increase.
4 At that time a number of Boulders residents, as well as
5 residents from Carefree Inn Estates, complained of
6 terrible sewer odor; and on December 5, the Decision
7 Number 69164 ordered Black Mountain to fix the problems.

8 Well, repairs were made, and for the first time
9 in years, we could breathe fresh, clean air. I wrote a
10 letter of thanks and appreciation to the Commissioners
11 from the BHOA on June 9, 2007.

12 Unfortunately, our luck didn't last. Since June
13 2007, I have filed complaint letters to the ACC reporting
14 sewer odor on October 16, November 15, and December 3 of
15 2007. It was about that time that I was informed that
16 although the air jumpers that had been installed on the
17 Boulder Drive line were doing their work, the scrubber at
18 the plant was unable to handle the load.

19 There was talk of installing a new ionic
20 scrubber which was the latest in scrubber technology.
21 Black Mountain had also hired a sound engineer to measure
22 the number of decibels the plant machinery was sending
23 forth into the neighborhood day and night. Studies and
24 discussions were held about the feasibility of installing
25 the scrubber.

1 In March of 2008, odor was back in full force,
2 and we received many complaints, not only from residents
3 who lived near the plant, but also from people who walk
4 and ride their bikes through the streets. I was no longer
5 on the homeowners board, but heard that a new scrubber
6 might not be needed. I later was told by the consulting
7 engineer that they learned there was a carbon scrubber not
8 being utilized at another facility that was similar in
9 capacity.

10 Black Mountain hired Lamb Technologies to
11 evaluate the second scrubber capacity. It turned out that
12 the second scrubber was the same size as the existing
13 scrubber, so Lamb recommended the second scrubber be
14 brought in and used to clean the air from the aeration
15 tanks. Modifications were made to the ducting in order to
16 make the entire arrangement work.

17 So now we have two scrubbers at work at the
18 plant. Lamb also recommended covering all openings to the
19 tanks, and that was done by D.L. Norton Construction.

20 Fast forward to 2009. There have been several
21 outbreaks which will be discussed more thoroughly by
22 our -- well, he's already discussed it, our property
23 manager. However, I wish to comment on the most
24 memorable -- one in June, and one earlier this month. The
25 duration of both incidents was two weeks. During both

1 episodes, the odor was concentrated around the plant,
2 along the nearby golf cart paths, and in the back and side
3 yards of neighboring properties.

4 The odor intensified in strength on Friday,
5 November 6, and was present throughout the weekend. I
6 should note here that there was a very large popular art
7 fair taking place in the Town of Carefree on that weekend,
8 Friday, Saturday and Sunday. I reported the odor incident
9 to Charlie Hernandez -- and he stopped by my house on
10 Monday morning, November 9 -- to say that the odor was
11 coming from the plant and was still there that morning
12 when he arrived. He said he would send out an engineer to
13 appraise the situation. So this is really quite a pattern
14 going here. At that time, though, he was also candid
15 about the Company's desire to close down the plant, too.

16 In my complaint letter to the Commissioners
17 dated November 10, I commented that the Maricopa County
18 Environmental Services Department may have deemed the
19 wastewater treatment plant in the Boulders in compliance,
20 but that judgment holds true only when the maxed-out plant
21 isn't overtaxed by any one of various situations.

22 We at the Boulders appreciate the efforts Black
23 Mountain has made to alleviate the sewer odor in our
24 community. But the fact remains that after many attempts
25 and many dollars spent, the Company has not solved the

1 odor issue between the plant and its neighbors, and it is
2 highly unlikely that Black Mountain will be able to, due
3 to the age of the plant and the proximity to residences.

4 Black Mountain would like to get rid of the
5 plant. It's a nuisance to them as well as it is to the
6 neighbors. There's a plan in place that could make this
7 happen. And this plan, we hope will happen while meeting
8 the continuing needs of the Boulders Resort for gray
9 water. We understand there will be a cost to this
10 project, and we are willing to accept a reasonable
11 increase in our rates.

12 I am pleased to add that our neighbors in
13 Carefree Inn Estates are in agreement that the plant
14 should be removed as was the odorous CIE lift station
15 three years ago in their community, and they understand
16 this action will result in a rate increase. These people
17 have signed petitions for us, and their homeowners
18 president has sent a letter, as have several other people.

19 I urge the Arizona Corporation Commission to
20 bless this plan, although the steps taken to implement it
21 are not in the usual sequence.

22 Approve this plan now while it is financially
23 feasible, rather than later when it will be prohibitively
24 expensive to do so. Thank you very much.

25 ACALJ NODES: Thank you very much for your time

1 and your comments.

2 The next slip is from Margaret Sambuchi. She
3 indicates she does not want to speak, but the statement
4 is, "I am aware of the odor everyday at the Club, walking,
5 in the golf cart. At times it is almost unbearable." So
6 thank you.

7 The next slip is from Kathryn Minckler. Again,
8 she does not want to speak. She supports the settlement
9 for closure of the plant.

10 Bill Minckler also did not want to speak,
11 presumably also supports the settlement agreement.

12 Next is William Stern, and he would like to
13 speak. So Mr. Stern, if you are here, if you would come
14 forward. Good morning.

15 MR. STERN: Thank you, Your Honor. Good
16 morning. My name is William B. Stern, S-T-E-R-N. I live
17 at 3038 Ironwood Road in Carefree. We would like the
18 sewer plant dismantled. We enjoy outdoor living, which
19 means even in cooler weather, we like to have breakfast
20 outside and dinner outside when we are home. Often the
21 odor from the plant disrupts that, and we have to go
22 inside.

23 All of the other comments that have been made
24 are applicable to us as well; and instead of taking your
25 time to go over them one by one, it would be very nice and

1 very considerable if we were to dismantle the plant.

2 Thank you very much for your time. Thank you very much.

3 ACALJ NODES: Thank you, Mr. Stern. We

4 appreciate your comments and time this morning.

5 Next is Herbert Laufman is in favor.

6 Mr. Laufman, I don't know if you wanted to speak

7 individually or not.

8 MR. LAUFMAN: No comment.

9 ACALJ NODES: Okay, thank you. Frank Daly, Mr.

10 Daly? Good morning.

11 MR. DALY: Good morning, Your Honor. My name is

12 Frank Daly, D-A-L-Y. I would like to thank you for

13 hearing us today.

14 Your Honor, I live at 2046 Smoketree Drive in

15 the Boulders, and as the crow flies that's about a half

16 mile from the sewage treatment plant that we are speaking

17 about. When I purchased my home about five years ago, the

18 sellers did not disclose that there was a sewage treatment

19 plant so near the house. Within a few days, there was an

20 odor that was no noxious, we actually thought that a large

21 animal had died perhaps in the desert or something. It

22 turns out it wasn't an animal that died in the desert. In

23 fact it was simply the odor from the sewage plant.

24 I won't dwell on the history. I would like to

25 echo the comments that other people have made. I think

1 Black Mountain Sewer has done everything they can to
2 eliminate the odor. They haven't been able to eliminate
3 the odor, however. As recently as last evening, as tends
4 to occur when the air is still and the temperature is
5 cool, as some other people have commented, we're forced to
6 go indoors as well.

7 It's sometimes a little embarrassing to have
8 guests over and you turn on the barbecue, and the next
9 thing you know people are looking kind of sideways at you,
10 and you finally have to explain that the smell is coming
11 from the sewer treatment plant.

12 There's another issue, which perhaps I suffer
13 more than many other people, although certainly many
14 suffer as I do, too. And that's the noise. We haven't
15 spoken too much about that today. Again, when the
16 climatic conditions are just right -- and again it tends
17 to be when the air is still and it's somewhat cool -- I
18 hear very distinctly outdoors, and indoors if I have the
19 windows open as was the case last evening, the noise from
20 the sewer plant. There's a continuous drone from some
21 kind of blower mechanism. Black Mountain Sewer has
22 actually been to my house earlier this year and
23 acknowledged that that noise was there. Unfortunately,
24 there's just nothing that can be done about that. It's
25 part of the facility itself.

1 So I would say they've made great strides in
2 terms of the odor. However, it's still there. The noise
3 is something we just can't do anything about. So again, I
4 invite anyone whose interested come over. I'll even make
5 a hamburger. It may not be under the best of conditions,
6 but you can see the situation we have and have to explain
7 away, in an otherwise very beautiful location.

8 I have learned, by the way, because I did
9 consult an attorney, that actually under Arizona state law
10 that the seller of the property, myself now, would have to
11 disclose the existence of this adverse condition which
12 affects the value of the home. In fact, I learned I could
13 have taken the sellers of the property when I purchased
14 the property to court, but I chose not to do so.

15 But for all of us who know about this, unless we
16 choose to simply frankly violate the law -- now I have no
17 intention of selling, but when we choose to sell, can you
18 imagine telling the buyer of your home it's a great place,
19 but guess what, there's a sewer treatment plant a half
20 mile away and it stinks and it's noisy. I mean it's not a
21 very favorable comment on your home.

22 It's a beautiful place other than that. And I
23 guess I'm here to echo the comments by others and support
24 the settlement agreement which would result in the
25 decommissioning of the facility. Thank you very much.

1 ACALJ NODES: Mr. Daly, thank you for your
2 comments and time this morning.

3 I know I'm going to get this wrong. Richard
4 Resseguie. I know that's horrible pronunciation. He does
5 not want to speak, but supports the settlement agreement.
6 I again apologize for butchering your name.

7 Next, Andrea Laufman does not want to speak, but
8 states, "I live in the Boulders, and many times there are
9 some terrible smells emanating from the processing plant."
10 Thank you.

11 Elayne Laufman does not want to speak, but
12 supports the settlement agreement.

13 Tom Garrett, also in favor of the agreement,
14 does not want to speak.

15 Joseph Raimondo is in favor of the settlement
16 agreement, deactivate the sewer plant at the Boulders. It
17 doesn't say whether Mr. Raimondo wants to speak or not.

18 MR. RAIMONDO: No, Your Honor.

19 ACALJ NODES: Okay. Thank you.

20 Better Reisman would like to speak and wants to
21 talk about the impact on the entire Boulders community.

22 Good morning, Mr. Reisman.

23 MR. REISMAN: Your Honor, my name is Bert
24 Reisman, R-E-I-S-M-A-N. And I'm a director and secretary
25 of the owners association of the Boulders Scottsdale,

1 commonly called the Boulders South. We have two
2 homeowners associations in the Boulders, the north where
3 the sewer plant is located and the south. But we are one
4 community, and those of us in the south Boulders actual
5 fully support this effort to decommission the Black
6 Mountain Sewer processing plant.

7 As you've gathered by now, this is an affront to
8 golfers. But I don't know if it was mentioned that every
9 week a thousand people play by the sewer plant, go by it
10 twice when they're playing the north course. I'm one of
11 them. Those of us who live in the Boulders, as I have for
12 20 years, are prepared for the foul stench you encounter
13 when you're going by the plant, but the guests, visitors
14 and relatives and resort guests who are not prepared to
15 encounter this smell are amazed and often disgusted by it.

16 Just imagine how Boulders residents living near
17 the plant feel about it. I know how bad it is when I'm
18 just visiting friends in the area. I'm concerned about
19 the health impact of the chemicals Black Mountain Sewer
20 keeps applying in vain efforts to fix the problem. I'm
21 concerned about the financial impact on our home values
22 throughout the Boulders, not just in the north; and I'm
23 concerned for all our friends who daily smell the odor,
24 hear the noise, and dodge the trucks connected with this
25 facility.

1 It's such a monumental anachronism. A plant
2 meant to be temporary 30 years ago is still pumping out
3 noxious fumes in the midst of one of our areas finest and
4 most beautiful communities.

5 The Commission has helped us in the past, and we
6 hope you can do that again. You are the ones who can
7 remedy this situation for us, and we appeal to you to do
8 so. Please decommission this blight on the Boulders.

9 ACALJ NODES: Mr. Reisman, thank you for your
10 time and comments. And before I move on to the next
11 public comment, let me just indicate that although I'm the
12 Administrative Law Judge here hearing the case and the
13 comments, individual Commissioners who are not here this
14 morning, although some may come and go as the hearing
15 proceeds, do have access, will have access to the
16 transcript of this proceeding. They have access to all
17 the letters that have been sent in to the Commission; and
18 the Commissioners, I think, as is evidenced by the last
19 proceeding, take the issues raised by the residents very
20 seriously, and always attempt to come to a reasonable
21 decision to address issues that have been raised in every
22 proceeding.

23 So I just wanted to give you that comment. And
24 they can also follow the proceeding via the online
25 Commission website as well as in their offices listening

1 in.

2 The next is R.H. Rhoads, does not want to speak,
3 is in favor of the settlement agreement. Margaret Rhoads,
4 likewise, does not want to speak but is in favor of the
5 agreement to close the plant.

6 Next I have Louise Reisman does not want to
7 speak but is in favor of the settlement agreement.

8 Tina McIntyre does not want to speak but is in
9 favor of the settlement.

10 And the next is Anne Pruessing is in favor of
11 moving the plant, and hope I got that somewhat close.

12 Paul Hyland does not want to speak but is in
13 favor of the settlement agreement.

14 Jean Hyland also does not want to speak but is
15 also in favor of the settlement agreement.

16 Susana Limbers is in favor of the settlement
17 agreement and states the sewer plant is not functioning
18 well, is in favor of plant closure.

19 Byron Limbers would like to speak regarding the
20 settlement agreement and plant closure.

21 Good morning Mr. Limbers.

22 MR. LIMBERS: Good morning, Your Honor. My name
23 is Byron Limbers, and I live at 2044 East Smoketree Drive
24 in Carefree. That's at the Boulders Resort.

25 For the sake of brevity, I would like to just

1 read the statement that I prepared last night. First of
2 all, I would like to thank you for the opportunity to be
3 here and to be able to ask for your help in making a
4 change in our community. I have lived in the Phoenix area
5 for over 60 years, and we've had our home at the Boulders
6 for the last ten years. We love our home and its unique
7 community. It is like none other.

8 We have great neighbors, a wonderful mix of
9 homes, small, large, and in between, views beyond compare.
10 We love living in Carefree and at the Boulders. We do,
11 however, have one significant situation in our wonderful
12 little community that we hope you can help us with. There
13 is an outdated 1970s sewer plant right in the middle of
14 the place. The odors are overwhelming at times. We have
15 reported these odors over the last several years, and
16 we've had wonderful cooperation from Black Mountain Sewer.

17 They research the problem, then advise us that
18 they have taken care of the situation. This has been
19 going on for many years. Major repairs were made to the
20 sewer plant, but nothing has really reduced the obnoxious
21 odors that we must endure.

22 We ask that this sewer plant be decommissioned
23 once and for all. The details of so doing have been or
24 will be presented, so I won't go into those details at
25 all. But the bottom line is, we need to make sure that

1 this plant is removed from our community.

2 There have been so many embarrassing situations
3 with the odor, as we call it. We've had people over for
4 Thanksgiving and, given our great weather, everything is
5 planned for outside. Two years in a row now we've learned
6 not to even consider going to Thanksgiving on our patio
7 because of the odor. My three-year-old niece two years
8 ago when we were outside said, "Uncle Byron, can we go in?
9 It smells out here."

10 We've had to move our celebrations inside
11 because of that, and we're talking about 35 people in my
12 family for Thanksgiving. So please help us decommission
13 this outdated sewer plant at our home, the Boulders. I
14 thank you very much, and as a resident of the Boulders
15 community, if I can give any additional information, I
16 would be more than glad to do so. And I invite you,
17 Judge, to be my guest at the Boulders at any time if you
18 would like more information. Thank you.

19 ACALJ NODES: Thanks for that offer.

20 MR. LIMBERS: We could have lunch on my patio.

21 ACALJ NODES: Unfortunately, I can't take you up
22 on that, but thank you for your comments this morning,
23 Mr. Limbers.

24 Next is Kari Vitikainen, and I'm sure that's
25 wrong, but she does not want to speak but is in favor of

1 the settlement.

2 Gail Ringelberg does not want to speak, is in
3 favor of the plant closure.

4 Kathleen Hindle is in favor of the settlement
5 agreement.

6 Ed Warner would like to speak, and states as a
7 former journalist, I think Boulders is one of the finest
8 places I've encountered. The only problem is the sewage
9 treatment plant.

10 Good morning, Mr. Warner.

11 MR. WARNER: It's Warner, Ed Warner, 1056 East
12 Boulder Drive. I'm a former journalist, Time Magazine and
13 Voice of America. My wife and I four years ago decided we
14 had enough of the problems of Washington, D.C., which
15 you're aware of, and we came out here to the beautiful
16 Boulders, and suddenly all those problems disappeared, and
17 we couldn't be happier with the community and the people.
18 And there is that one problem that we face here which we
19 didn't in Washington, and that's the sewage plant which
20 has been discussed. We're not that close to it, but when
21 we pass by, we're aware of the strong aroma, and we
22 understand the problem for people who live closer to it
23 and to their property values.

24 Finally one thing that's been mentioned, the
25 possible health problems associated with the plant. I'm

1 certainly not qualified to speak on that, but I think
2 they're well worth considering. Thanks.

3 ACALJ NODES: Thank you, Mr. Warner.

4 William Bergman does not want to speak but is in
5 favor of the settlement.

6 Barbara Moffitt does not want to speak but is
7 also in favor of the settlement.

8 Kenneth Moffitt does not want to speak but is in
9 favor of the settlement agreement.

10 Robert Hindle does not want to speak but is in
11 fair of the plant closure.

12 Jane Stimpson does not want to speak but is in
13 favor of the settlement.

14 Ellenor Mueller would like to speak and is in
15 favor of the settlement agreement.

16 Good morning, Ms. Mueller.

17 MS. MUELLER: Good morning, Your Honor. How are
18 you?

19 ACALJ NODES: Fine, thanks.

20 MS. MUELLER: I had this wonderful speech
21 prepared, but I think my neighbors have eloquently
22 expressed our feelings. I just want to tell you the
23 Boulders is a wonderful place to live; and if you could
24 just help us solve this problem, we would be eternally
25 grateful. Thank you.

1 ACALJ NODES: Thank you for your comments and
2 your time this morning.

3 Herbert Fox does not want to speak but is in
4 favor of the settlement agreement.

5 Bruce Fine would like to speak in favor of the
6 settlement agreement. Good morning, Mr. Fine.

7 MR. FINE: Thank you, Your Honor. It's Bruce
8 Fine, F-I-N-E. I have been a homeowner in the Boulders
9 for 36 years, which is more than most, and I can tell you
10 at the beginning the sewer plant did not cause much of a
11 problem. I don't think it was there the first year I was
12 there. And I remember that the original purpose of it,
13 aside from taking our sewage, was to provide wastewater
14 for the golf course, which now I'm told is not even a
15 major part of what they do.

16 I can only emphasize what everyone else has said
17 right now. It smells bad. The sewer company, we know,
18 has done as much as they can, but there seems to be no
19 solution to it. The plant must be decommissioned. It is
20 noisy. It disturbs people. The trucks are through all
21 day long. Those are annoying. There may be a health
22 problem involved. All of these reasons are to remove it
23 from the middle of our community.

24 It's hurting home values right now. It has been
25 hurting home values right now, as has been mentioned. It

1 is a detriment if you try to sell your home. You've got
2 to inform the buyers that it's there.

3 We have a beautiful community, and all of these
4 factors have not helped our community; and we urge you and
5 Commissioners to understand our problem and to realize
6 that decommissioning the plant is probably the only
7 solution that will work. And we know that there will
8 be -- we are speaking for the other residents, and I am on
9 the board of homeowners of the BHOA. We know that is the
10 only solution that is possible, and we understand that
11 there may be a slight adjustment in rates. It's worth it.
12 Thank you, sir.

13 ACALJ NODES: Thank you for your comments,
14 Mr. Fine.

15 Lynn Coyle does not want to speak but is in
16 favor of the settlement agreement.

17 Warren Stimpson does not want to speak but
18 favors the settlement agreement.

19 Glendon French does not want to speak but is
20 also in favor of the settlement agreement.

21 Norman Kolb does not want to speak but is in
22 favor of the settlement agreement.

23 John Dille does not want to speak. Also is in
24 favor of the settlement agreement.

25 Ann Heller Kolb does not want to speak but is in

1 favor of the settlement treatment.

2 Kathryn Wilke does not want to speak but favors
3 the settlement agreement for plant closure.

4 Mary Peterson does not want to speak. She says,
5 "I would like to be able to open my windows and enjoy the
6 desert and not the odor of the sewer." Thank you.

7 Carol Rogers does not want to speak but favors
8 the settlement agreement.

9 Stewart Rogers would like to speak and says,
10 "The plan will provide long-term solutions at minimum
11 costs." So, Mr. Rogers, good morning, sir.

12 MR. ROGERS: Thank you, Your Honor, good
13 morning. My name is Stewart Rogers, R-O-G-E-R-S, and my
14 residence is at 1717 Staghorn Lane in the Boulders. I
15 have been there -- I bought the place in 1980 or '81. So
16 along with Mr. Fine, I'm one of the longer-term residents.

17 Before I retired, I was a businessman,
18 particularly in the finance area, and I'm aware that all
19 machinery eventually wears out or is outmoded. This
20 plant, as has been stated, was started as a temporary
21 facility for 120 homes. It's currently downstream flow-
22 wise from 21 or 2,200 homes or establishments of one sort
23 or another. It's 40-plus years old. Its capacity rating
24 is 120,000 gallons a day. Its peak load, which it can't
25 handle obviously, is 400,000 gallons.

1 The plant is simply too old and too obsolete,
2 and the machinery is now unique to the point where we are
3 throwing good money after bad if we continue to operate
4 it.

5 Looking at the other side of the problem, the
6 question that I raise is, what happens if we don't do
7 something to close the plant? It means that because we
8 have the ability today to switch the flow direct to
9 Scottsdale, which has the capacity and would like to have
10 the business, we will be paying Scottsdale to operate our
11 base loads and our excesses, and at the same time we will
12 unnecessarily be operating the plant and maintaining it at
13 increasing costs and with increasing problems.

14 We've already demonstrated that these problems
15 cannot be fixed. The plant is worn out. It can't be
16 moved. It can't be expanded, et cetera. But it can be
17 decommissioned.

18 The increase in cost will really come out of the
19 net cost of decommissioning it, which has already been
20 discussed. It's a relatively small amount, but the sewer
21 company is entitled to agreement from the Commissioners
22 that they agree that this is part of a long-term plan. It
23 doesn't make any business sense, to me anyway, to have a
24 contract with Scottsdale that's competitive, that they
25 want, where the material is being processed at a modern

1 plant, and simultaneously, be forced to operate a plant
2 that is in efficient, troublesome, a public nuisance.
3 It's a blight on the real estate titles in the area, and
4 that we think will cost more and more and more to operate
5 in the future. We're being forced to maintain excess
6 plant if that facility is not decommissioned.

7 I would strongly urge the Commissioners to look
8 not only at all the problems of the owners and the
9 associated risks related to lawsuits, health, et cetera,
10 and approve the program to decommission the plant. Thank
11 you very much.

12 ACALJ NODES: Thank you for your time and
13 comments, Mr. Rogers.

14 The next slip is from Anton Wilke, does not want
15 to speak but favors the settlement agreement.

16 Carolyn Davidson does not want to speak but is
17 in favor of the settlement agreement.

18 Richard Simkin, I believe, does not want to
19 speak but is in favor.

20 Elizabeth Kay Creighton would like to speak and
21 is in favor of the settlement agreement. Good morning.

22 MS. CREIGHTON: Good morning. Thank you, Your
23 Honor, and Members of the Commission. My name is
24 Elizabeth Creighton. I reside at 1039 Boulder Drive. I
25 moved into the Boulders approximately five years ago.

1 Like many of those -- well, a few of those that
2 spoke before me, it was also not disclosed to me by the
3 listing agent that there was a sewer plant adjacent to my
4 property and that there had been ongoing issues
5 experienced by the homeowners.

6 I'm one of the folks that Mr. Reisman mentioned
7 who lives adjacent to the sewer plant. I thought it was a
8 utility station for the golf course, and I am very
9 appreciative of my fellow neighbors who are speaking about
10 their own situations. I thought I was one of the few and
11 that I was a solo voice in the matter.

12 I wanted to share some of the anecdotal
13 information and experiences. I've experienced extremely
14 offensive odors, both outside and inside my property.
15 Just last week I was brushing my teeth in the morning and
16 I smelled noxious odors coming up from my sink drains.

17 Last night I was awakened at 3:00 in the morning
18 to large banging sounds coming from the plant. I'm a
19 sound sleeper. I don't know if anyone else heard them,
20 but I'm adjacent to the plant, and I heard large banging
21 sounds for about 20 minutes coming from the plant.

22 I'm about -- I don't know if anyone can
23 guesstimate for me -- 50 yards, I'm guessing, or less from
24 the plant.

25 Similarly to others that spoke, I'm hesitant and

1 embarrassed to invite people over. It's a lovely home for
2 entertaining, and I'm embarrassed to invite people over
3 for barbecues or other events. I would love to take
4 advantage of the outdoors, and I keep my windows and doors
5 closed most of the time.

6 Lastly, my biggest concern is for health
7 reasons, and Mr. Warner brought them up briefly. I
8 recently researched on the EPA website that one of the
9 largest risks to living adjacent to a wastewater treatment
10 facility is the exposure to chemicals and specifically
11 chlorine, and I am aware that bleach is used in the
12 process to treat the wastewater. And according to the EPA
13 website, long-term exposure to chlorine, even at low
14 levels that is not even noticeable from the odor, can
15 cause irreparable lung damage and possibly death.

16 I urge the Commission to seriously consider the
17 testimony today, and am asking them to do the right thing
18 and allow this community to have the same rights as
19 others, and that is to live in a comfortable and safe
20 environment, and we ask you to seriously consider the
21 testimony.

22 ACALJ NODES: Mrs. Creighton, since you live on
23 Boulder Drive, as you know, there was some work undertaken
24 coming out of the last case to try to remedy odors that
25 apparently were being experienced along Boulder Drive.

1 Did you notice an improvement after that work was
2 completed, maybe not related to the plant itself, but the
3 repairs along Boulder Drive? Did that affect you or
4 improve anything from your perspective?

5 MS. CREIGHTON: You know, it's hard to say, Your
6 Honor. It's probably safe to assume I'm one of the few
7 that was a fully employed individual and not a retired
8 individual in the community, so I was often at work during
9 the entire days. And recently over the last year I've
10 been unemployed, so I'm now at my home and experiencing
11 it. So I really do not know -- I'm not able to determine
12 the before and after effects.

13 ACALJ NODES: Thank you for your comments this
14 morning.

15 MS. CREIGHTON: Thank you.

16 ACALJ NODES: Ken Clarke does not want to speak
17 but is in favor of the settlement agreement.

18 Denise Bourdon does not want to speak but favors
19 the settlement agreement.

20 Michael Terry Denton does not want to speak but
21 is in favor of the agreement.

22 Sally Denton is also in favor of the agreement.

23 Charles Breed does not want to speak but favors
24 the plant closure.

25 Eli Murray does not want to speak but is also in

1 favor of the agreement.

2 Browning Yelvington does not want to speak but
3 is in favor of the agreement.

4 Charles Murphy would like to speak and favors
5 the plant closure.

6 MR. MURPHY: I did sign up to speak, but my
7 comments would be repetitive of what you've been hearing.

8 ACALJ NODES: Okay. Thank you for coming down
9 this morning, Mr. Murphy.

10 Louie Bischoff would like to speak in favor of
11 the -- I guess it's Louise perhaps.

12 MS. BISCHOFF: It's Louie.

13 ACALJ NODES: I apologize. I figured it was
14 just me getting it wrong again. In any event, good
15 morning, Ms. Bischof.

16 MS. BISCHOFF: Good morning. How are you today?

17 ACALJ NODES: Fine, thanks.

18 MS. BISCHOFF: Thank you for your time. My name
19 is Louie Bischoff. Last name is spelled B-I-S-C-H-O-F-F.
20 I did spell it incorrectly on there so you could read it
21 easier.

22 ACALJ NODES: Yeah, and I screwed it up anyway.

23 MS. BISCHOFF: My name is Louie Bischoff. I am
24 the mother of two young children, ages 4 and 6, and I am a
25 homeowner in the Boulders in Carefree, Arizona. We have

1 lived here since 2005. The reason we chose to live in the
2 Boulders was for the sense of security and safety that the
3 community offers.

4 My background is in international business, and
5 I have an MBA from Thunderbird School of Global
6 Management. My focus over these past few years has been
7 shifted from being globally active to being household
8 reactive.

9 My past negotiation experience, I have to admit,
10 has come in very handy when communicating with my two sons
11 to do chores around the house, and those of you that are
12 parents can probably relate to that point. I understand
13 as a business person that the antiquated equipment at the
14 plant does not operate at efficient levels, and I
15 understand as a mother that a safe, healthy environment,
16 and preferably an odor-free one, is the best for my
17 children.

18 I am here today to communicate to the ACC that
19 there are families with children living in the Boulders.
20 I appeal to the Commission to decommission and dismantle
21 the present sewer plant located on the property.

22 Thank you for your time, and thank you for your
23 service to the people.

24 ACALJ NODES: Thank you, Ms. Bischoff, for your
25 comments.

1 Bill Reev does not want to speak but is in
2 favor. It says 20-year resident.

3 Those are all the signup slips I have, but let
4 me ask if there's anyone else who wishes to come forward
5 and make any public comment regarding this matter this
6 morning?

7 (No response.)

8 ACALJ NODES: Okay. I want again to thank
9 everyone for coming this morning and offering public
10 comment, and you are welcome to stay as long as you like.
11 After we take a short break here, we're going to come back
12 and take the opening statements from the parties, and then
13 we will begin with the evidentiary witnesses, as I
14 indicated previously. But I do need to give the court
15 reporter a break. So what we'll do is take a ten-minute
16 break and come back at about 10:40.

17 (Recessed from 10:30 to 10:40 a.m.)

18 ACALJ NODES: I think we're ready to get started
19 again, and we're ready to begin with opening statements.
20 I'll turn first to Black Mountain Sewer Company's
21 attorney, Mr. Shapiro.

22 MR. SHAPIRO: Thank you, Judges Nodes, and good
23 morning, again. I have to admit to feeling very nostalgic
24 actually sitting here this morning. Thirteen years ago
25 Dr. Doelle filed a complaint against Black Mountain Sewer,

1 which was then known as Boulders Carefree Sewer. The
2 Company chose to defend that complaint, and I was in my
3 first real litigation at the Corporation Commission. I
4 conducted discovery, and I learned all about low-flow spit
5 sinks. I put on the Company's defense. We had a little
6 trial in that half of the room back there. Back in the
7 old days, there was another deus back there, and they
8 would pull the divider across the room, and we would have
9 two hearing rooms. Dr. Doelle brought in a spit sink, and
10 I cross-examined him all about it.

11 Then a couple months later, Mr. Wakefield, then
12 the hearing officer, ruled in Dr. Doelle's favor.

13 That nostalgia made me realize that I've been
14 involved in a lot of Commission proceedings since then;
15 and although they tend to blur together, the last rate
16 case for Black Mountain also stands out like Dr. Doelle's
17 case. In that rate case, three years, five months and 11
18 days ago, I sat in this same spot and unwittingly made a
19 bad situation much worse when I quoted my witness in that
20 case as saying, "Black Mountain does not have an odor
21 problem; it has an odor complaint problem."

22 We can't go back and change that testimony, no
23 matter how much my client and I wish I had not relied on
24 it that morning. But we can acknowledge that we were
25 wrong.

1 It turned out that Black Mountain had both an
2 odor problem and a problem relating with its customers.
3 And I can stand here now in this case with confidence and
4 say that since then, Black Mountain has fixed the odor
5 problem that they have, and they also think that they've
6 fixed their customer communication problem. And it is in
7 large part the solutions to those problems that were
8 brought to this Commission in that last rate case that are
9 before the Commission again in this case.

10 Last night in preparing for today, I went back
11 and read that last order which you drafted, Judge Nodes,
12 and the Commission approved three years ago next month.
13 Three things in particular jumped out at me from that
14 order.

15 First, the Commission found in no uncertain
16 terms that certain portions of Black Mountain's system
17 were emitting unpleasant odors beyond what would be
18 expected in the course of business.

19 Second, the Commission was very displeased with
20 the Company's efforts to resolve the odor problem, and
21 with the Company's effort to work in cooperation with
22 customers and within the community it served. As a result
23 of these first two issues, the Commission described the
24 odor problems as the most contentious issue in that rate
25 case.

1 The third thing that jumped out at me was that
2 the Commission did not like the shared services model that
3 Algonquin Water, now known as Liberty Water, was using to
4 operate its utility subsidiaries. This was because Black
5 Mountain was charged actual costs plus a profit earned by
6 its affiliates. That message was echoed again to Liberty
7 Water in the rate case for Gold Canyon six months ago.

8 So my client took that order and they went to
9 work. First, they made improvements to their system to
10 address the odor problems. As a result, rate base has
11 gone up by over 2.2 million dollars since the last rate
12 case. And that is the primary reason for this rate case
13 and for the rate increase that's being sought. And
14 fortunately, there does not appear to be any dispute that
15 these odor problems that existed before were resolved and
16 that the investment was prudent and that the plant was
17 used and useful.

18 Second, representatives from Black Mountain and
19 Liberty Water started to meet regularly with and to
20 develop a cooperative relationship with the Town and local
21 community groups. This effort worked. Not that everybody
22 is going to agree on everything, but Black Mountain takes
23 a lot of pride in its efforts to be a part of the
24 community it serves, and we think the public comment that
25 you heard here today reflects the success of those

1 efforts.

2 In fact, that cooperative spirit has followed us
3 into this case with the Boulders Homeowners Association's
4 intervention. They intervened because they believe -- and
5 you've heard today -- that no one seems to want Black
6 Mountain's treatment plant to remain smack dab in the
7 middle of their community. They're not pointing fingers.
8 They're just saying get rid of it.

9 Of course, unlike the situation before, this is
10 a used and necessary plant that we believe is operating
11 exactly as it was supposed to, just not where anybody
12 wants it. In other words, if I may be so bold this time,
13 we have a geography problem.

14 When this community was planned many years ago,
15 this is where somebody decided to put the plant, right in
16 the middle of the neighborhood. The only solution that
17 anybody has now is to remove the plant, reroute the flows,
18 and send them down to the City of Scottsdale, along with
19 the rest of the Company's wastewater flows.

20 So Black Mountain and Boulders Homeowners rolled
21 up their sleeves and worked out a plan to close the plant.
22 The plan requires physical closure and removal, the
23 rerouting of existing flows, and the purchase of
24 additional capacity from the City of Scottsdale.

25 The Company has agreed to fund the estimated

1 costs for this project, expected to exceed 1.5 million
2 dollars, as well as you heard to then sell the land and
3 share those proceeds, the gain on those proceeds with the
4 homeowners. The homeowners have agreed that they should
5 pay a return on and of that investment through their sewer
6 rates, and they have agreed that Black Mountain should not
7 have to go through another rate case before earning that
8 return.

9 The other parties in this case -- Staff hasn't
10 addressed the Boulders' request for relief. RUCO has, and
11 RUCO believes that every residential ratepayer in the
12 State of Arizona will suffer harm if the approvals that
13 are requested in the settlement agreement are provided.

14 We will leave it to RUCO to explain why it isn't
15 focused on finding a way to assist its constituents in
16 finding solutions, and instead is offering the Commission
17 "the sky is falling" stories about the end of regulation
18 as we know it.

19 This is an extraordinary situation, but that
20 does not mean that the means to solve it is not available.
21 The means to improve the coming together of the two
22 interests the Commission is charged with the duty to
23 balance is sitting right in front of the Commission in
24 this case in the form of the parties' settlement
25 agreement.

1 Third, after the last rate case, Liberty Water
2 went about restructuring its shared services model. All
3 profit was eliminated from affiliate services and all cost
4 allocations. All affiliated services and cost allocations
5 are now charged on the basis of actual costs, exactly as
6 Staff's witness, Ms. Brown, recommended in the last rate
7 case.

8 In this case, the Company is now back here again
9 with the costs arising from its restructured shared
10 service approach. Did Staff offer any recognition of the
11 efforts by the Company to change the way it does business?
12 None whatsoever. Instead, from the Company's point of
13 view, it appears that Staff looked at the new affiliate
14 costs included in operating expenses and said what else
15 can we cut now?

16 As a result Staff declares four million dollars
17 of costs incurred by the Company's parent, APIF, and costs
18 that were allocated down to all of the subsidiary
19 utilities and nonutilities alike. Staff believes these
20 are all unreasonable and all nonrecoverable, or the vast
21 majority of them are.

22 Now, the total amount allocated to Black
23 Mountain was only \$34,000. The Company has already
24 acknowledged that a significant portion of the costs that
25 were allocated should be excluded, but we've taken

1 everything out simply because Staff believes that APIF is
2 a for-profit enterprise and these costs provide no benefit
3 to ratepayers.

4 No benefit? Algonquin Power Income Fund
5 wouldn't exist but for its subsidiaries, including the
6 seven public service corporations in Arizona. It exists
7 to own, operate, and fund these utilities and other
8 facilities that it owns. There is certainly nothing
9 unusual about 3.8 million dollars of a roughly 4 million
10 dollar allocation pool being allocated down.

11 Mr. Bourassa will testify in this case that
12 these costs are similar to corporate costs allocated by
13 parent companies to other Arizona water providers,
14 allocations that have been approved with Staff support in
15 other recent orders, and they're the very same costs that
16 the Commission found reasonable, included in operating
17 expenses in this Company's last rate case, as well as the
18 recent rate case for Gold Canyon. The only thing that's
19 changed is Staff's opinion.

20 At this point, respectfully, it's reasonable to
21 assume that Liberty Water can't keep restructuring how it
22 does business in Arizona just because Staff keeps
23 recommending different decisions. They would be better
24 off going to a stand-alone entity that will cost more and
25 result in less service, which we would like to remedy in

1 this case by having the operating expenses, including the
2 cost allocation, under a cost-based, market-based shared
3 services model approved. Thank you very much.

4 ACALJ NODES: Thank you. Mr. Chenal.

5 MR. CHENAL: Yes, good morning, again, Your
6 Honor. It's an honor to be here. It's nostalgic as well
7 for the Town of Carefree. As corporate members, we were
8 instrumental in the last rate case in seeking relief on
9 behalf of residents of the Town.

10 One leftover issue from that prior hearing
11 involved a refund that was ordered of hookup fees in the
12 sum of \$833,367 to be returned to the customers. One
13 homeowners association, Carefree Inn Estates, is composed
14 of 33 residents and pays the standard sewer charge for
15 each of the residents of that HOA. However, my
16 understanding is those amounts are lumped together, and as
17 such, the association is treated as one customer.

18 So when the refunds were made by Black Mountain,
19 as they were ordered to do, each customer received
20 \$412.15, and that included the association. So they
21 received one payment of \$412.15, not that amount times 33
22 for each of its residents.

23 When this was raised at the end of the rate
24 hearing, or actually it was after the rate hearing
25 finished, the parties essentially agreed by stipulation --

1 at least the Town did, Black Mountain and RUCO did -- by
2 stipulation to, in effect, refund of a sum of money to
3 each of those 33 members, residents, and deduct certain
4 fees from those who had received a refund. So it was
5 proposed at the time that each of the members or residents
6 of the association receive a little over \$405 and those
7 customers who had received a refund would be debited a
8 little over 6 dollars.

9 For various reasons, the stipulation was not
10 finalized. In short, I think Black Mountain felt that it
11 would be appropriate that that matter be raised at the
12 next rate hearing, which is the rate hearing today.

13 So we are here and the parties are agreeable to
14 a satisfactory resolution whereby the current customers of
15 Black Mountain who have received a refund -- the number is
16 now lower, 1,671 residents, customers received a refund --
17 would be debited \$7.51, and the residents of the
18 association receive a refund of \$104.64. That's the
19 testimony of Mr. Kincaid on behalf of the association,
20 which has been submitted, and it's also the testimony of
21 Mr. Sorensen on behalf of Black Mountain.

22 So that's the relief we'll be requesting, Your
23 Honor, and I believe it's without any objection.

24 ACALJ NODES: Thank you, Mr. Chenal.
25 Mr. Wakefield.

1 MR. WAKEFIELD: Thank you. Your Honor, right in
2 the middle of the Boulders residential community sits the
3 Boulders Wastewater Treatment Plant that was originally
4 constructed in 1969. We have over on the easel there the
5 map that's attached as an exhibit to Mr. Peterson's
6 surrebuttal testimony, and you'll see the circle, and at
7 the center of that circle is the location of the
8 wastewater treatment plant; and the circle represents a
9 thousand feet from the plant, which is what the setback
10 requirement would be if that plant were constructed today
11 pursuant to the DEQ regulations.

12 The plant currently sits less than a hundred
13 feet from three homes, and there's two to three hundred
14 homes within a thousand feet of the plant. The plant is
15 permitted for 120,000 gallons per day of wastewater, and
16 it treats about 20 percent of the Company's total
17 wastewater flows.

18 The plant site was originally intended to serve
19 only the residents of the Boulders and the golf course.
20 Further, it was intended that the site was only a
21 temporary location for the treatment of wastewater and
22 that another location would be secured further away from
23 the homes for a more permanent treatment facility. But 40
24 years later, the treatment plant remains at the original
25 site in the middle of the residential neighborhood.

1 In the last case, rate case filed in 2005, the
2 homeowners intervened and brought to the Commission's
3 attention the odor issues related to Black Mountain
4 Sewer's sewer operation. The Town of Carefree also
5 testified in that proceeding about the odor issues. And
6 at that time the odor problem was so pervasive that some
7 thought that corrections to the collection system was all
8 that was necessary to solve the problems.

9 The odor issues, as we've heard this morning
10 from several of the public commenters, are more prevalent
11 in the cold weather when there's more users on the system.
12 About 40 percent of those Boulders residents are away in
13 the hot summer months, and the odors are also more
14 prevalent in the early morning and late afternoons.

15 In the decision from the last rate case,
16 Decision 69164, in order to mitigate the odor problems,
17 the Commission required the Company to implement one of
18 two solutions that had been proposed by the Town's
19 witness. The Commission expressed its desired goal as
20 "odor remediation in the Boulders community." The
21 Commission further indicated that it believed that action
22 should be taken to advance a solution that will enable all
23 customers to enjoy fully their property without enduring
24 offensive odors.

25 In response to the Decision 69164, the Company

1 upgraded the collection system and removed the CIE lift
2 station. That's the Carefree Inn Estates' lift station.
3 In this case, the Company is requesting recovery of its
4 investment to implement those measures. Neither Staff nor
5 RUCO has opposed any of those costs being included in rate
6 base. More than a third of the increase the Company is
7 requesting in this proceeding is related to those
8 improvements that the Commission required in the last rate
9 case to address the odors from the collection system.

10 But as we've heard from public comment this
11 morning, the odor problems persist; and I understand from
12 one of the homeowners association members that there have
13 been about 500 comments and signatures on petitions filed
14 that also are speaking to the persistent odor problems
15 that have been filed in the Commission's docket in this
16 case. So now it's clear that the problem was both the
17 collection system and the wastewater treatment plant.

18 The homeowners association has again intervened
19 to press for a complete solution to the problem, now that
20 it's apparent that the corrections to the collection
21 system did not fully eliminate the odors. The homeowners
22 association recognizes that there will be costs to
23 customers to remediate the odors, and they've worked to
24 work out a design of a recovery mechanism for the Company
25 to recover those costs.

1 The homeowners were prepared to just come in and
2 ask the Commission to order that the plant be closed, but
3 we thought it would be worth exploring whether there was a
4 solution that was acceptable to the Company. And the
5 Company had been responsive to the community's concerns
6 since the last rate case, so we had good reason to think
7 that there might be a way to work out an agreeable
8 solution. So we began a dialogue.

9 The Company was not unwilling to shut down the
10 plant, but several issues stood in the way. First, the
11 Company has an agreement with the Boulders Resort to sell
12 the Resort all of the effluent treated at the Boulders
13 Wastewater Treatment Plant for irrigation at the Resort's
14 golf courses. That agreement is in effect through 2021
15 and it prevents the Company from unilaterally closing the
16 plant and cutting off the Resort's supply of effluent.

17 Second, the Company would require some other way
18 to treat the 120,000 gallons per day of effluent that's
19 currently treated at the Boulders plant. The Company has
20 the right to purchase additional capacity at the
21 Scottsdale Wastewater Treatment Plant where the remaining
22 80 percent of their wastewater is already treated. So
23 there was a workable solution to that issue, and in fact,
24 doing it sooner will result in a cheaper solution to that
25 issue because the Company's right to purchase that

1 additional capacity in the Scottsdale plant currently
2 costs six dollars a gallon, and that rate is locked in
3 through 2016. But after that point, it's not likely that
4 the Company would be able to acquire capacity at that
5 plant or any other plant to treat that 120,000 gallons a
6 day. In fact, current market rates are about three times,
7 more than three times that six dollars per gallon rate
8 that they can purchase that capacity from Scottsdale for
9 currently.

10 The third, the Company was unwilling to incur
11 costs of closing the plant and obtaining an alternate
12 treatment capacity from Scottsdale if there was a risk
13 that the Commission would later say it wasn't prudent and
14 therefore deny recovery. And the Company was also
15 unwilling to wait until the next rate case to begin
16 recovery of its increased investment to close the plant
17 and acquire the additional capacity from Scottsdale.

18 But to get around that issue, the Company is
19 willing to close the plant if the Commission approves in
20 this proceeding a mechanism that will provide the Company
21 recovery of a return of and on the plant closure capital
22 costs and the other costs necessary to accomplish that
23 plant closure.

24 So the homeowners have agreed to support a
25 recovery mechanism that would allow recovery of the

1 investment required to close the plant and acquire that
2 capacity. This isn't blanket approval to incur any costs
3 the Company wants. The customers have no desire to see
4 their rates go up any more than necessary to allow the
5 Company to close and decommission the plant and acquire
6 what's necessary to treat the 120,000 gallons a day
7 elsewhere.

8 And further, the settlement provides for sharing
9 of the gain on the sale of the real estate after the plant
10 is closed, and those shared gains will have a significant
11 tempering effect on rates when they flow through to
12 customers.

13 So rather than just file testimony complaining
14 about the odor problem and asking the Commission to bring
15 about a solution, the homeowners association was able to
16 come forward with a solution that was also agreeable to
17 the Company, and that's what we've done with the
18 settlement agreement.

19 Now, as I've said before, no party in this
20 proceeding is objecting to the Company recovering the
21 costs it incurred to implement the odor mitigation
22 measures that have been implemented to date by the
23 Company.

24 And as for the settlement itself, Staff did not
25 oppose any aspect of it when it had its opportunity to

1 address it in its surrebuttal. Rather, Staff's
2 surrebuttal testimony supports recovery of the Company's
3 additional legal expenses related to negotiating the
4 settlement.

5 Only RUCO has expressed objections, and really
6 on two bases. First, RUCO expresses some doubt as to
7 whether closing the plant will in fact solve the odor
8 problem, although they don't put forward any evidence
9 suggesting that it won't.

10 And second, RUCO has a philosophical objection
11 to the sort of cost recovery mechanism that the settlement
12 contemplates. But we'll show that in the past the
13 Commission has not felt itself enslaved to the ratemaking
14 principles that lead RUCO to its opposition.

15 The homeowners aren't suggesting that approval
16 of the settlement necessarily opens the door to adjuster
17 mechanisms or surcharges any time a utility asks for one,
18 or that the Commission should forever abandon ratemaking
19 principles that generally protect consumers; but this is a
20 very unique situation, and it merits a unique solution.

21 In 2006, in the last rate case decision, the
22 Commission said that all of the Company's customers were
23 entitled to be free of the odors of a sewer system, and
24 the Commission expressed its desire that the recurring
25 odors in the Boulders community be eliminated.

1 The settlement is a way to accomplish that goal
2 within the bounds of the various constraints that prevent
3 the Company from just shutting the treatment plant on its
4 own, and the homeowners urge the Commission to approve
5 this settlement agreement. Thank you.

6 ACALJ NODES: Thank you, Mr. Wakefield.
7 Mr. Wakefield, does your client have a position on the
8 refund that's been proposed by Mr. Chenal for the group of
9 33 customers?

10 MR. WAKEFIELD: We don't have any position on
11 that.

12 ACALJ NODES: Okay. Do you see any legal issues
13 from your understanding of the law as far as whether that
14 would constitute some sort of retroactive ratemaking?

15 MR. WAKEFIELD: Not having really given it much
16 thought, I couldn't give you a conclusion on that.

17 ACALJ NODES: Okay. That's a little unfair to
18 put you on the spot.

19 Mr. Shapiro, I'll ask for posthearing briefs on
20 the issue, obviously; but just if you have a position, if
21 the Company has a position on the issue raised by
22 Mr. Chenal on behalf of those residents?

23 MR. SHAPIRO: The Company's position as set
24 forth in Mr. Sorensen's testimony is that if the
25 Commission believes that the 33 individuals who weren't

1 refunded before should be refunded, they have no problem
2 with that, so long as the refund comes from those that
3 effectively were overrefunded. So that's the calculation
4 that Mr. Sorensen did.

5 The one thing he had to do was figure out who
6 was still there that got a refund because we can't find
7 those that got refund and left the system. So that's why
8 the number is the 1,600 that Mr. Chenal mentioned.

9 So we don't have any problem with the remedy.
10 And I guess as to your question, I guess my argument would
11 be this is not really a rate charge for service, per se.
12 It's a refund of capital funds that were provided through
13 CIAC, and therefore, I don't believe it would constitute a
14 retroactive rate for service.

15 ACALJ NODES: Okay. Thank you. Ms. Wood.

16 MS. WOOD: Good morning, Judge Nodes. My name
17 is Michelle Wood, and I'm appearing on behalf of RUCO.

18 Among the issues in dispute, four stand out.
19 They are first, the Company's proposed settlement
20 agreement with the Boulder's Homeowners Association;
21 second, the use of adjuster mechanisms; three,
22 nonrecurring expenses and rate case expense; and four,
23 capital structure and the determination of the cost of
24 capital.

25 The issue that will garner the most attention,

1 as you can see from this morning's public comment, is the
2 issue of the settlement agreement between the Company and
3 the Boulders Homeowners Association. The terms of the
4 agreement require the closure of the Black Mountain
5 Wastewater Treatment Plant and redirection of the flows to
6 the City of Scottsdale.

7 As a general proposition, RUCO does not oppose
8 the retirement of the plant, if retirement of the plant
9 will address the odor issues of which the consumers
10 complain. RUCO does not have an engineer, so we are
11 relying on the engineering opinion of Commission Staff.
12 From our review of the engineering reports, there seems to
13 be a concern that retirement of the plant will not resolve
14 all the problems or all odor issues. Accordingly, RUCO
15 caveats its agreement to retirement of the plant on the
16 determination that the plant is the source of all odor
17 concerns.

18 RUCO has a continuing objection to the cost
19 recovery adjuster mechanism proposed by the consent
20 agreement. The Company attempts to recover the costs of
21 retirement of the wastewater treatment plant and
22 redirection of the wastewater flow using a mechanism which
23 is, in RUCO's opinion, similar to an arsenic cost recovery
24 mechanism or an ACRM.

25 The facts of this case do not necessitate an

1 ACRM-like cost recovery mechanism.

2 The Commission and the courts have recognized
3 that cost recovery mechanisms are fraught with peril,
4 which include unintended consequences such as those
5 encountered as a result of a prior settlement agreement
6 attempted by Arizona-American Water Company and the Town
7 of Paradise Valley. Cost recovery mechanisms should only
8 be used in extraordinary circumstances. Unlike arsenic
9 treatment plants which are federally mandated by changes
10 in maximum arsenic levels, there is no federal or state
11 mandate requiring retirement of the wastewater treatment
12 plant or redirection of the flows.

13 If the Commission determines that the retirement
14 of the plant will resolve the odor issues, and it is in
15 the public interest, then RUCO supports retirement of the
16 plant. However, RUCO recommends the Commission deny the
17 cost recovery mechanism and instead require the Company to
18 return in a subsequent rate case to recover its costs.

19 The next issue deals with the Company's proposed
20 purchased wastewater adjuster mechanism. As already
21 mentioned, adjuster mechanisms are extraordinary measures
22 used only in unique circumstances, which do not apply
23 here. The Commission has granted purchased fuel and power
24 adjuster mechanisms when the expense is a significant
25 portion of the Company's expenses and the expense is

1 volatile. Adjusters shift the risk from the Company to
2 its ratepayers and are a disincentive to controlling
3 costs.

4 The Company may encounter incremental increases
5 in purchased wastewater capacity, but the increases are
6 not volatile. Accordingly, RUCO recommends denial of the
7 Company's request for a purchased wastewater adjuster
8 mechanism in this case.

9 The third issue is the treatment of rate case
10 expense and the treatment of nonrecurring expenses. As to
11 rate case expense, RUCO is in the process of reviewing
12 rate case expenses incurred to date and hopes to have a
13 final estimate by the time of testimony.

14 The Company incurred \$39,870 for cleanup costs
15 associated with a sewage spill and \$4,723 for a one-time
16 easement dispute. Actually, let me correct that. That
17 figure is \$1,500 for a one-time easement dispute. RUCO
18 recommends that the Commission deny these expenses because
19 they are nonrecurring expenses.

20 The final issue is the cost of capital relative
21 to the Company's capital structure. RUCO recommends an
22 overall weighted cost of capital 7.43 percent. Although
23 the Company has some debt associated with a treatment
24 capacity agreement, the Company is by virtue of a prior
25 order of the Commission recovering those costs on a

1 dollar-for-dollar basis as an operating expense.
2 Accordingly, the Company has zero debt in its capital
3 structure. The Company's capital structure is not
4 consistent with that of similar wastewater facilities and
5 is not in the public interest because it fails to take
6 advantage of lower cost debt financing.

7 In calculating its cost of capital, RUCO
8 utilized a hypothetical capital structure of 40 percent
9 debt and 60 percent equity, which brings the Company's
10 capital structure in line with the capital structures of
11 similar utilities.

12 RUCO also estimated the cost of debt at 6.26
13 percent. The difference between the parties'
14 recommendation as to cost of equity is the way in which
15 they computed the cost of equity. RUCO's cost of equity
16 is the mean average of the results of the discounted cash
17 flow or DCF and capital asset pricing model or CAPM
18 analysis, which utilized samples of both publically traded
19 water providers and a sample of publicly traded natural
20 gas local distribution companies or LDCs to arrive at its
21 cost of equity.

22 In computing the CAPM, RUCO used both geometric
23 and arithmetic means, a practice utilized by Staff and its
24 consultants in many cases, but not in this one. Staff and
25 RUCO address the Company's one hundred percent equity

1 structure in different ways. The Staff computes the cost
2 of equity using the Hamada methodology, which involves the
3 de-levering of the average beta of the utility proxy to
4 address the perceived reduction of risk in the hundred
5 percent equity structure of the Company.

6 Although this method achieves the goal of
7 reducing the cost of equity to take into account the
8 Company's failure to take advantage of lower cost debt
9 financing, it does not take into account the tax shield
10 advantages of debt financing.

11 Debt financing provides tax advantages, a fact
12 which is not addressed by the Hamada methodology. RUCO's
13 recommended use of a hypothetical capital structure and
14 hypothetical cost of debt addresses both issues and
15 provides for an appropriate interest deduction to arrive
16 at an appropriate level of income tax expense for
17 ratemaking purposes.

18 RUCO also opposes the cost of equity sponsored
19 by the Company, in part because it's based on a CAPM
20 analysis which relied on a high market risk premium,
21 ignored widely used geometric means of market returns and
22 used a long-term treasury instrument as opposed to a
23 five-year treasury instrument, which is more reflective of
24 the period in which utilities typically apply for relief.

25 In addition to these factors, the beta

1 coefficients used by the Company are actually higher than
2 those currently reported. Moreover, in computing its
3 discounted cash flow analysis, the Company relies solely
4 upon projected earnings per share, instead of considering
5 estimates of earnings per share, dividends per share, and
6 book value per share.

7 For these reasons and those more fully developed
8 in testimony, RUCO recommends adoption of its cost of
9 common equity of 8.22 percent and its weighted cost of
10 capital of 7.43 percent. Thank you.

11 ACALJ NODES: Thank up. Dr. Doelle?

12 DR. DOELLE: What I've chosen to do is just kind
13 of a brief summary of my involvement and position in this
14 proceeding and hearing. As already mentioned, I'm no
15 stranger to these hearing cases. I started 14 years ago.
16 I am a dentist in Carefree. I have a small practice.
17 It's not a high volume practice. I see an average of five
18 to twelve patients a day, and I have hygienists who see
19 approximately five to seven patients a day. Many of my
20 patients are seniors, and I see a lot of familiar faces
21 here in the audience.

22 My history with the Black Mountain Sewer Company
23 and the former Boulders Carefree Sewer Corporation, in
24 approximately 1995, '96, I received a rate increase which
25 I didn't understand. It amounted to about a 300 percent

1 increase in my sewer rates. I went to Mr. Don Seethaler
2 who was the representative at the time for Boulders
3 Carefree Sewer Corporation.

4 His question to me was, "Well, you're a dentist,
5 right?"

6 I said, "Yes, I'm a dentist."

7 He said, "That's your rate."

8 I had no idea where this came from. I thought
9 it was a computer error. I didn't pay it for a while; and
10 then eventually I started researching it, and I realized
11 that there was an Engineering Bulletin No. 12 that was
12 published by Arizona Department of Environmental Quality.
13 This is the first version of it in May, 1976. It was
14 revised in 1989.

15 The title of all of these bulletins reference
16 septic tank systems. They're maximum capacities in case a
17 septic tank gets overloaded. So it's very high hydraulic
18 loadings. That's the verbiage they used.

19 How it applied to my business is that back in
20 the '70s, there was a spit basin, if I can use
21 Mr. Shapiro's reference. We actually call it a dental
22 chair cuspidor. This is a swirling sink that sits next to
23 the chair. I'm sure some people who have been around a
24 while remember doing the sit-up and spitting in the sink
25 every five seconds. Many dentists let that water run

1 continuously. I am sure there are dentists who let it run
2 24/7. It would conceivably generate a lot of water.

3 According to the table in Engineering Bulletin
4 No. 12, it amounted to 500 gallons of water per dental
5 chair per day. Now, in my office, I've never had a
6 cuspidor. I've worked with cuspidors in dental school.
7 When I started practice, I heard about modern technology.
8 We have closed bottle water systems. This is on each of
9 my units. The hygienists fill it once a day. I fill it
10 twice a week.

11 This is the extent of the water that goes into
12 my dental chair. It's not anywhere near 500 gallons per
13 chair per day.

14 At that point, I contacted Arizona Department of
15 Environmental Quality, spoke to the chief hydrologist at
16 the time, and she said I don't understand why this is
17 being used to determine your sewer rate. It makes no
18 sense. I said it doesn't make sense to me either. She
19 said this is in the event that a dentist was building an
20 office and had cuspidors, what's the worst amount of water
21 that could go down that sewer, and that's what it needs to
22 be designed for.

23 So where does that leave it? We have a rate
24 design that at least for my situation is using Engineering
25 Bulletin No. 12. It has figures that are obsolete for

1 dentistry, and the impact -- I'm glad I didn't look at
2 this until last night. I want to qualify this. I am not
3 a mathematician; I am not an accountant, and maybe I'm
4 reading the numbers wrong. But when I plug in what I'll
5 call a multiplier -- and it's 0.28957 per gallon. That's
6 Mr. Bourassa's proposal for the commercial customers, and
7 I plug it in to my situation, and if Bulletin Number 12 is
8 being used, I'm not sure whether they're going to use
9 working days or calendar days; but in the worst case they
10 would use 60,000 gallons of water per month for my office.

11 If I plug in this multiplier, and if this is
12 talking about cents -- and again, if I'm wrong, I
13 apologize. Somebody needs to explain the numbers to me.
14 It works out to an annual charge of over \$200,000 for my
15 sewer bill. If that's what it is, that's more than my
16 income, and I don't belong to stay in practice. Even if
17 it's half that, it would be -- the ramifications on my
18 business would be -- I mean I can't be paying those kind
19 of sewer bills.

20 So that gets us into an alternate rate design,
21 and that's kind of where we've been going back and forth.
22 The fairest method is actual water usage. Those figures
23 are available. I have offered to supply them. I've come
24 up with a solution that involves using the winter months
25 which is the common standard in the industry. I would

1 provide those figures every year to the Company. They
2 don't seem to like that idea. So where I am is I'm asking
3 the Commission to once again 14 years later decide what do
4 they do about Dennis Doelle.

5 Engineering Bulletin No. 12 may work for some
6 customers. It may work for most of the customers. It
7 just doesn't work for dentistry.

8 And the other thing that I am realizing is even
9 a special rate, which is what has happened in the past,
10 uses a different multiplier. Typically, it's a .12, .14,
11 maybe half of what the regular multiplier is. The problem
12 isn't the multiplier. It's the 60,000 gallons a month.
13 You plug that in to my office, and there's no way I can
14 see a sewer bill under thousands of dollars a month.

15 There has to be some other system for my
16 practice because Engineering Bulletin No. 12 is obsolete
17 for dentistry.

18 ACALJ NODES: All right. Thank you.
19 Mr. Torrey.

20 MR. TORREY: Your Honor, before I make my
21 comments, I would just like to let you know that
22 Mr. Schirtzinger, the final intervenor, has appeared.

23 ACALJ NODES: Okay. Give Mr. Schirtzinger the
24 microphone. Good morning, Mr. Schirtzinger, if you would
25 state your name for the record.

1 MR. SCHIRTZINGER: It's Max Schirtzinger. I
2 live in the Scottsdale portion of the Boulders, and I'm
3 here basically opposing the rate increase.

4 I'm a registered professional engineer. I've
5 been designing wastewater treatment plants for some 45
6 years. It's time for me to long since quit, but I have
7 designed wastewater treatment plants with capacities as
8 large as 40 million gallons a day, some of which are
9 totally energy independent. I'm not registered to
10 practice in Arizona, only in Ohio and five other states.
11 So I'm certainly not looking for a job here.

12 I visited the plant on November 9th and met with
13 Mr. Dan Shanaman who is the chief operator and Charlie
14 Hernandez who is the business manager. My purpose of
15 visiting the plant was to come up to date on what was
16 going on at the plant.

17 I visited this plant some 15 years ago, just
18 more out of curiosity, and the plant has not really
19 changed in that time.

20 The devil is in the details of this, what we're
21 talking about here. The plant is really a water
22 reclamation facility, and it's permitted by the Arizona
23 Department of Water Quality to treat 120,000 gallons a
24 day. According to Mr. Shanahan, the plant receives for
25 treatment about 180,000 gallons a day in the winter months

1 and from 87,000 to 100,000 gallons a day in the summer
2 months.

3 The plant has four aeration tanks and is
4 operated as an extended aeration plant which has a 24-hour
5 detention time based upon 120,000 gallons a day. The
6 effluent is filtered using a traveling bridge filter,
7 chlorinated, and then pumped to the Boulders Resort North
8 Lake.

9 Dechlorination is not practiced because the
10 effluent is mixed with other reclaimed water and used for
11 irrigation on the golf course. This is environmentally
12 sound because if this same volume of water were allowed to
13 flow to the City of Scottsdale and they treated it -- and
14 incidentally, the City of Scottsdale operates basically a
15 water reclamation plant, too. They pass their sludge on
16 to the City of Phoenix.

17 So then if it goes down to Scottsdale where the
18 elevation is 1,600 some feet above sea level, they get to
19 pump it back a thousand feet, that would take about 50
20 horsepower to do that.

21 So it's environmentally sound to keep a water
22 reclamation facility in the same area as the water is
23 generated.

24 Unfortunately, the plant has no reliability.
25 There are four positive displacement blowers which make a

1 lot of noise; and even though the Boulders' sewer has
2 incorporated a lot of sound baffling, it still makes some
3 noise even though it's not really -- you can't really hear
4 it that much when you're out on the streets.

5 The plant is located at 1035 East Boulder Drive,
6 and it's not an ideal location for a treatment plant; but
7 it was built before the homes were constructed. And no
8 doubt, the sale price of the lots that were sold next to
9 that wastewater treatment plant probably reflected the
10 fact that they were going to be looking over a wastewater
11 treatment plant.

12 In Ohio, only a 300-foot buffer zone around the
13 plant is required for this type of plant. The odor is not
14 confined to the treatment plant and occurs in the
15 collection system mostly because of very low flows, and
16 that's particularly true during the summer months. In
17 fact, I have two sewer lines in front of my home, one of
18 which -- both of which have embossed on them "City of
19 Scottsdale sewer system." Why I have two sewer lines in
20 front of my home, I don't know. One has absolutely no
21 flow in it and it's located in the middle of the street.
22 The other one is about ten feet from the edge of the
23 pavement, and it does have a very small flow into it, and
24 from time to time there is some odor coming out of those
25 manholes.

1 The plant is not well-configured. Inefficient
2 trash pumps are used in all the lift stations, and the
3 main lift station has a 25-horsepower pump rather than
4 pressure grinder pumps which could be used; and they would
5 only have about 5 to 7.5 horsepower.

6 When the sewage, when the wastewater gets to the
7 treatment plant, then the Boulders Carefree has installed
8 pressure grinder units to grind up the sewage. So they do
9 have an odor control system that's employed at the head
10 end of the plant, and actually that odor control system
11 does provide a negative suction onto the sewer system. So
12 it probably helps control odor in the sewer system to some
13 degree.

14 The bad news is that during my visit there was a
15 plug valve on tank number 4 which is inoperable and an air
16 line to a diffuser on tank number 4 was broken. All flow
17 was being diverted to the City of Scottsdale. This
18 continued until November 18, so that there was no flow
19 being treated by the wastewater treatment plant at all.
20 They were simply not repairing this thing on a prompt
21 basis. They just allowed all the flow go to the City of
22 Scottsdale. What that does, of course, is just add to the
23 cost for us consumers.

24 The total repair for fixing this is less than
25 two hundred bucks. And I suggested to them how they might

1 do this.

2 Unfortunately, the plant has no reliability.
3 You have four positive displacement blowers. If one of
4 those goes out, they don't have a spare.

5 So I don't oppose decommissioning this plant.
6 But if the Commission decides to decommission the plant,
7 then I think they should just decommission the entire
8 Boulders Carefree Sewer Corporation and let Scottsdale
9 handle both the collection system and the treatment plant.

10 If you decide not to decommission the plant, the
11 plant could be upgraded, and changing the flow pattern in
12 the plant to a contact stabilization system would allow
13 the existing tank to be converted, and you could easily
14 convert that plant to treat 240,000 gallons a day or twice
15 what its rated capacity is now.

16 You would do that by configuring the plant so
17 that two of the tanks would be used as aeration tanks.
18 One tank would be used as a re-aeration tank, and the
19 fourth tank would be used as a sludge holding tank. This
20 is the same kind of a system which the City of Scottsdale
21 uses, and of course, it's called an activated sludge
22 system.

23 I'm opposed to any rate increase because what
24 you are really doing is kind of rewarding the Company for
25 a rather poor operation on the existing facilities. And

1 the other reason is that the rate structure is really not
2 fair to those of us who leave in the summertime. I
3 generate zero sewage when I'm gone for six months.

4 And I also think that a great deal of the sewer
5 collection system should be allocated to the cost of
6 development, just like the cost of installing roadways.
7 You can't sell lots unless you have a sewer system and
8 roadways and water lines and so forth.

9 So if the Commission decides to decommission the
10 plant, I think we should not be penalized for recovering
11 all these costs; and secondly, I think it's
12 environmentally sound action to keep that plant in
13 operation but instruct the Boulders Carefree Sewer
14 Corporation to do a little engineering study to convert
15 that plant to a contact stabilization system.

16 One of the advantages that Liberty Water claims
17 is that they have a number of wastewater treatment systems
18 that they operate in Arizona. That should give them the
19 ability to hire some experts and transfer that expertise
20 around and spread it over a number of the plants.
21 Evidently, they're not doing that.

22 And I thank you for your time. I know this is a
23 little bit technical; and if you would like some kind of a
24 brief or something on this, I would be happy to submit it
25 to the Commission later on.

1 ACALJ NODES: Well, Mr. Schirtzinger, you know,
2 you were granted intervention in the case; and my role is
3 to afford due process which means basically fundamental
4 fairness to all the parties in the case.

5 You were given a chance to file expert
6 testimony, which has been prefiled by all the parties.
7 You know, the problem with you offering -- first of all,
8 these were just opening statements. That's another issue,
9 but we can get around that, I think.

10 Do you want to offer your last statement that
11 you indicated here this morning as basically public
12 comment in support of your position as opposed to sworn
13 testimony? The problem is, you're essentially offering
14 what I think you believe constitutes expert testimony. It
15 hasn't been prefiled; therefore, no other party has had an
16 opportunity to review it and prepare cross-examination.
17 And so it's difficult for me to -- if you want, if you
18 agree to offer your statements as public comment, I think
19 we'll be just fine, because then it's not actually
20 considered evidence in the case. It's your view of things
21 basically, just like we heard the public comment from many
22 members that came in this morning regarding the odor issue
23 and so forth. So I guess I'll ask that of you, how you
24 want this to be handled?

25 MR. SCHIRTZINGER: Well, I'm an engineer. I'm

1 not a lawyer, and I don't know what your procedures are.
2 I have received a lot of information. I've got two
3 briefcases. I've got a stack of stuff that looks like
4 that from all the submittals, and it's pretty interesting
5 from RUCO and from the Commission and so forth. So I'm
6 glad that I intervened. But if you want to just treat
7 this as public comment, please do so. That's fine.

8 My whole point is that the existing plant is not
9 reliable. There should be expertise available to the
10 Company to make it reliable, and there's a way to increase
11 the capacity of that plant for less than \$100,000.

12 I don't think decommissioning that plant is
13 going to totally solve the odor problem. So however the
14 Commission wants to go. I think the sewer rates are
15 exorbitant already, and -- they're way above the average
16 for the State of Arizona. They're twice the average for
17 the State of Arizona already, and I don't really think
18 we're getting very much for our money.

19 If I had a choice, I would take my sewage and go
20 someplace else.

21 ACALJ NODES: You know, I think all things
22 considered, if you're offering your statement as public
23 comment, I think we're okay. If you want it to be
24 considered as sworn testimony for which you would be
25 subject to cross-examination, I think we get into a more

1 difficult situation.

2 So I guess I'll leave it to you. I'm not saying
3 you can't. But then we get into the issue of whether it
4 should have been prefiled. So you're okay with the public
5 comment treatment of your information?

6 MR. SCHIRTZINGER: Yeah. I'm not -- you know,
7 I'm trying to be helpful. I know that some of the
8 approaches that have been considered here are really not
9 environmentally sound, and they should be considered by
10 the Commission. They should be considered by some experts
11 at RUCO or some engineers, and that's not me. I've
12 retired. So -- thank you.

13 ACALJ NODES: Well, we'll consider your
14 statement as public comment in this proceeding then.

15 Mr. Shapiro, satisfactory?

16 MR. SHAPIRO: Yes, thank you.

17 ACALJ NODES: Mr. Torrey.

18 MR. TORREY: Thank you, Your Honor. Your Honor,
19 one of the effects of going last for the opening
20 statements is that most of what needed to be said has
21 already been said, and pretty well. But I will echo some
22 of the statements that were made.

23 Generally, the areas of disagreement in this
24 case, most of those are fairly standard areas of
25 disagreement that come up in rate cases. The one that's

1 the fairly unique circumstance that will probably take the
2 most time does revolve around this plant.

3 From Staff's position, as our witnesses will
4 point out, the plant itself right now is a functioning and
5 used and useful piece of equipment by the utility. Albeit
6 an older piece of equipment and from all accounts not
7 eliminating odors the way that it should, it's still a
8 used and useful piece of equipment.

9 Staff is not opposed on an ideological level to
10 having this plant shut down and/or removed, but it does
11 raise some issues. Number one, as Mr. Schirtzinger has
12 brought up and as Staff's witness will reiterate, it's not
13 necessarily true that removal of this plant will eliminate
14 the odor problem that the folks that came here today to
15 discuss this have brought up. The odor may not go away
16 even with total removal.

17 However, even if it were to be accepted that
18 that would be the case, the second issue that comes up is
19 the mechanism for recovery once the plant is removed. And
20 again, as Mr. Schirtzinger has brought up and Staff will
21 speak to the issue, the recovery mechanism may not be a
22 fair way to distribute those costs. Not everyone -- I
23 mean surely the majority of the folks that spoke here this
24 morning were certainly willing to take on some extra cost
25 to get rid of the odor problem. That's understandable.

1 But that doesn't mean that it's necessarily the fair way
2 to do it.

3 There was a meeting with Staff and the Company
4 and the HOA before the hearing, and Staff had discussed
5 with those parties its concerns about the recovery
6 mechanism. But in order to make a really well thought out
7 and in depth discussion and present testimony on what a
8 fair mechanism would be, that would have delayed this rate
9 case very significantly. And obviously, this case needed
10 to remain on track.

11 And so Staff is left with the position that the
12 recovery mechanism itself may not be fair, but we don't
13 have the data that we need at this time to propose a
14 better mechanism. And so we'll bring those issues up, but
15 it may not be the case that we have answered those
16 questions in the sort of detail that the Commissioners may
17 need to make a real decision on that. But that's going to
18 be up to the Commissioners as to whether they've heard
19 enough that they feel that they can make a better decision
20 on the mechanism itself.

21 Outside of that particular issue, as I said,
22 most of the remaining disagreements are fairly standard
23 disagreements that we can handle in a fairly standard way.

24 ACALJ NODES: Okay. Mr. Shapiro.

25 MR. SHAPIRO: Yeah, Judge Nodes, I'm sorry. I

1 apologize for having to bring this up, but we've just been
2 presented for the first time with substantive positions by
3 Staff witnesses that they're going to testify to. We've
4 never seen anything in writing. We haven't been presented
5 with anything in advance.

6 Since we do have a break, I think Staff should
7 be required to put something, even if it's just an
8 executive summary, something so we have some idea of what
9 their formal position on this issue is. I don't know how
10 we're expected to prepare for cross-examination of Staff's
11 witnesses on issues that they clearly have a position on
12 but they haven't taken until opening statements today.

13 ACALJ NODES: Well, the Staff witnesses won't be
14 taking the stand till next week sometime.

15 MR. SHAPIRO: Correct.

16 ACALJ NODES: Correct?

17 MR. SHAPIRO: I can't imagine that they would
18 get on before Tuesday at the earliest, yes.

19 ACALJ NODES: Right. Mr. Torrey, I guess, let
20 me ask you, was it your intention to have some
21 supplemental testimony filed on the issue of a cost
22 recovery mechanism?

23 MR. TORREY: Your Honor, as I think -- I thought
24 I said this fairly clearly. Staff hasn't developed
25 testimony on an appropriate cost recovery mechanism. The

1 ideological disagreement that we expressed before was that
2 the mechanism the Company seems to offer is similar to,
3 for example, an arsenic recovery mechanism, and our folks
4 have met with their folks and have said previously that we
5 just didn't agree with that. But we haven't proposed an
6 alternative because the data needed to make an alternative
7 just isn't available right now.

8 ACALJ NODES: Okay. So Staff's position is
9 opposition to the recovery mechanism that's included in
10 the settlement agreement, correct?

11 MR. TORREY: Correct, Your Honor. That's just
12 simply what my questions on cross-examination will revolve
13 around, just to sort of bring up those issues. But we
14 don't have a counterproposal that we're putting in.

15 ACALJ NODES: So will the Staff witnesses be
16 able to testify regarding why the opposition exists? I
17 mean I think that's what the question is, for due process
18 reasons, if a party takes a position, they have to be able
19 to answer questions as to the basis of that position,
20 whether they have an alternative proposal or not.

21 MR. TORREY: Your Honor, obviously my clients
22 are discussing something here. Before I answer that, I
23 want to confer.

24 ACALJ NODES: You can talk it over at a break.
25 I think what I would like to do is just take Dr. Doelle

1 here before we break for lunch, and then maybe during the
2 lunch break or some other point, Staff, you can talk
3 things over with Mr. Shapiro or any other party on that
4 issue of Staff's position. All right.

5 Dr. Doelle, if you would like to come forward,
6 and you can come up here and sit in the witness seat.

7 MR. WAKEFIELD: Your Honor, before we get to
8 Dr. Doelle, I just would like it to be clear in the record
9 that RUCO shares the same concerns that Mr. Shapiro had
10 raised regarding what appears to be Staff's -- I'm sorry,
11 not RUCO. Old habits die hard. The homeowners share the
12 concerns that Mr. Shapiro expressed about what appears to
13 be Staff witnesses intending to take positions that they
14 had not prefiled.

15 We'll be more than willing to discuss it with
16 them. I just don't want the record to appear that we
17 hadn't raised the objection in a timely fashion.

18 ACALJ NODES: Okay. Fair enough.

19 (NEXT PAGE, PLEASE.)
20
21
22
23
24
25

1 DENNIS E. DOELLE, D.D.S.,
2 called as a witness herein, having been first duly sworn
3 by the Certified Reporter to speak the truth and nothing
4 but the truth, was examined and testified as follows:

5

6 EXAMINATION

7

8 BY ACALJ NODES:

9 Q. Dr. Doelle, since you are not represented by
10 counsel, I'm going to try to kind of get this into a
11 proper format, if you don't mind.

12 You've been sworn, and you have submitted, I
13 guess, initially on July 20th, you submitted something
14 titled Intervenor's Testimony and Exhibits, correct?

15 A. Uh-huh.

16 Q. Let's call that Doelle Exhibit 1, with your
17 permission?

18 A. Okay.

19 Q. On September 18, you filed Direct Testimony of
20 Dennis Doelle, and let's call that Doelle Exhibit 2. Is
21 that --

22 A. Well, there was the July entry because I didn't
23 realize things had been moved up. So then in the next two
24 months I had an expanded testimony.

25 Q. So does the September 18th filing supersede and

1 eliminate --

2 A. No, they're both appropriate. It was filed
3 twice because I didn't realize that the procedural order
4 had moved things to a later date.

5 Q. We're going to call that Doelle Exhibit 2?

6 A. Okay.

7 Q. Then your surrebuttal testimony filed on
8 November 9th, we'll call that Doelle Exhibit 3 with your
9 permission?

10 A. Uh-huh.

11 Q. So you have those three pieces of testimony?

12 A. Then there's a filing exhibit list that was
13 filed this morning. I have copies that I can hand out to
14 everyone today. Since it won't be docketed till later in
15 the day. This just references my opening statement
16 arguments.

17 Q. Okay. Well, let me back up here a minute.
18 First of all -- and we have this happen sometimes with pro
19 se intervenors. The opening statement essentially, I
20 think, would have been your direct testimony on the stand
21 today, basically a summary of your testimony, correct?

22 A. Correct.

23 Q. With your permission, would you agree that the
24 statements you made in your opening statement would
25 constitute testimony given under oath and upon which you

1 would agree you could be cross-examined on here this
2 morning?

3 A. Yes.

4 Q. Okay.

5 A. I just have how I arrived at my calculations
6 which I mentioned in the opening statement on paper,
7 but --

8 Q. Okay, we'll get to that in a minute.

9 A. Okay.

10 Q. The Exhibits 1, 2 and 3 that we've previously
11 marked which are your three pieces of testimony, if you
12 were, I guess, to ask yourself the same questions today
13 under oath as were set forth in those three exhibits,
14 would your answers be the same or substantially the same?

15 A. Yes.

16 ACALJ NODES: Okay. Now, is there any objection
17 to admission of Doelle Exhibits 1, 2 or 3 by any party?

18 MR. SHAPIRO: No.

19 ACALJ NODES: Okay. And likewise, regarding the
20 opening statement being treated as sworn testimony, in
21 effect, as a summary of Dr. Doelle's testimony and
22 position in this case, is there any objection to treating
23 it that way?

24 MR. SHAPIRO: No, Your Honor.

25 ACALJ NODES: Okay. So we will do so.

1 BY ACALJ NODES:

2 Q. Now, Dr. Doelle, you've been sworn. You now say
3 you have some additional exhibits that you relied upon, I
4 guess, in coming to the conclusions that are set forth in
5 your testimony, correct?

6 A. Some of the exhibits have already appeared in
7 prior testimony. They're just being reproduced. The only
8 new one is a photograph of a cuspidor, an old cuspidor,
9 and my calculations on the impact of my rate, which I
10 discussed in the opening statement.

11 Q. The calculation about the \$200,000?

12 A. When I plug in the multipliers, in case someone
13 is wondering how I arrived at it, this is how I arrived at
14 it. And again, whether it's accurate will -- I mean, to
15 my knowledge, it appears accurate, but that's why I'm a
16 dentist and not a --

17 Q. Here is what I'm trying to suggest, even though
18 I was hoping we could have you on and off the stand before
19 lunch. I think the Company may want to take a look at
20 your calculation because it does seem like perhaps it's a
21 little higher than they probably would have expected. So
22 what I'm going to suggest is we break for lunch. If you
23 can provide the Company and the other parties with copies
24 of this additional information -- I don't know that
25 anybody is going to object to the cuspidor picture. But

1 the calculation, I think, may raise an issue. So if you
2 will, when we break for lunch here, get together with the
3 Company and whoever else wants to talk about it.

4 A. As far as having to leave, when I realized the
5 magnitude of the public comments, I pretty much cleared my
6 day. It would be hard for me to go on to another day,
7 but --

8 Q. Right. No, I understand. That's why we're
9 trying to accommodate you so we can finish here today.
10 Like I said, I wanted to accommodate getting you on and
11 off before we broke for lunch, but I think we're going to
12 need to have a lunch break here.

13 So we will take a lunch break until 1:00. That
14 gives us about an hour and ten minutes. Show the Company
15 what you've got there; and hopefully, you can dispense
16 with any issues related to these additional exhibits.
17 Okay?

18 A. Sounds good.

19 ACALJ NODES: We'll break for lunch until 1:00.

20 (Recessed for lunch from 11:50 a.m. to 1:02 p.m.)

21 ACALJ NODES: Is everybody ready? Did we get
22 any meeting of the minds on --

23 MR. SHAPIRO: I know that Dr. Doelle and
24 Mr. Bourassa spoke, and I believe that Mr. Bourassa has
25 helped to correct Dr. Doelle's calculation, but I'll let

1 Dr. Doelle speak to that.

2 ACALJ NODES: All right. Very well.

3 BY ACALJ NODES:

4 Q. Dr. Doelle, if you would pull the microphone
5 over and speak directly into it.

6 Would you like to make any additional comments
7 based on your conversations with the Company witness?

8 A. Yes, I do understand the methodology much better
9 than before. My concern is it's still using Engineering
10 Bulletin No. 12, so it's using the 2,000 gallon figure per
11 day in the calculations, which I think I've demonstrated
12 over a period of 14 years does not apply to my business.
13 But I do understand the calculators that -- like I said to
14 Mr. Bourassa, I'm glad I didn't plug those numbers in
15 three months ago, or I would have lost a lot of sleep.

16 Q. On the topic of this Engineering Report No. 12,
17 you said it was last updated in 1989?

18 A. 1989.

19 Q. And I know -- I looked at the order regarding
20 your complaint filed some years ago, and there was as well
21 the letter you attached from the DEQ person, and it seemed
22 to indicate, according to that letter, that DEQ thought it
23 should be somehow revised.

24 Has any further action been taken on that report
25 or --

1 A. To my knowledge, it's been revised into four
2 other bulletins that address aquifer systems, meaning
3 on-site systems, not sewer systems. It's for septic tank
4 systems, basically.

5 Q. Okay, but the same, I guess assumptions or the
6 same criteria continue to exist with respect to dental
7 offices as were first set forth in the old Engineering
8 Report No. 12 that was issued back in the '70s or '80s?

9 A. It was revised in 1989. To my knowledge, that's
10 the last we've seen of Bulletin Number 12.

11 Q. Okay.

12 A. With that name. Now, I do have -- I did hear
13 from the person that had the correspondence that she was
14 rewriting it into a whole different format, but I never
15 did see where that ended up, so --

16 Q. So you don't know if there has been an updating
17 of it since the time that that letter was written?

18 A. I do not know.

19 Q. Okay. All right. Okay. Well, I'm going to let
20 people ask questions, and I guess we'll go from there.
21 Anything else you wanted to state before I turn it over
22 for cross-examination?

23 A. Just primarily the problem is not the multiplier
24 or whatever you plug in. The problem is the water usage,
25 and any multiplier is going to be exacerbated by the

1 extreme magnitude of the water that comes off that
2 engineering bulletin.

3 Q. Okay. Your concern is with the assumption that
4 a dental office, at least in your case, uses much more
5 water than you actually use in your practice?

6 A. That's right, and that was the whole basis of
7 the formal complaint in 1996, that --

8 Q. And you were given a special rate as a result of
9 that case which you continue to be served under, at least
10 as of now?

11 A. I think I was just given a flat rate. I'm not
12 even sure it was based on water. It was just a flat rate
13 that was determined.

14 Q. Flat rate.

15 A. What happened is that I argued that I was no
16 different than any other health care provider -- doctors,
17 dentists, chiropractors, all professionals, because we all
18 have rooms. We all might have a sink in the corner, and
19 so I said I'm no different than anybody else.

20 But none of those categories are in Engineering
21 Bulletin No. 12. So someone made the decision that I fit
22 into that group. How it was calculated, I don't know.

23 Q. And you believe that it started because of these
24 constantly running cuspidors, but that given current
25 technology, that assumption about usage is no longer

1 appropriate?

2 A. Cuspidors is just part of it. I mean another
3 big thing that anybody can relate to is we used to wash
4 hands between every patient. If you do that with these
5 harsh soaps that we have, you will have no skin left. So
6 we wear sterile gloves when we work, and we have hand
7 sanitizers which are waterless.

8 So the sinks that I have in my dental chair
9 operatories hardly get used because they're not used for
10 washing hands like they used to be. We don't have x-ray
11 tanks with recirculating water. Everything has gone
12 digital. So the trend in dentistry is less and less water
13 use compared to the '70s and even '80s.

14 ACALJ NODES: All right. Thank you.
15 Mr. Shapiro.

16 MR. SHAPIRO: Yes, just a few questions.
17

18 CROSS-EXAMINATION
19

20 BY MR. SHAPIRO:

21 Q. Good afternoon, Dr. Doelle. You agree that the
22 Company is currently charging your dental clinic based on
23 the rates approved by the Commission, correct?

24 A. Yes.

25 Q. And you're not suggesting that the Company

1 should collect less revenue. It should just collect less
2 revenue from your dental clinic?

3 A. I think the Company is entitled to a return.
4 I'm not sure I understand your question.

5 Q. Your only concern is just how much you pay,
6 correct? You're not challenging any other aspect of the
7 Company's request?

8 A. I'm just concerned about how the rate design
9 applies to me because it seems unfair.

10 Q. Who is your water provider, Dr. Doelle, at your
11 clinic?

12 A. Carefree Water Company.

13 Q. And do you know how many water providers there
14 are in Black Mountain service area?

15 A. I have no idea.

16 Q. But Black Mountain is not your water provider,
17 correct?

18 A. Black Mountain --

19 Q. Black Mountain Sewer Company?

20 A. That's true.

21 Q. So they don't in the ordinary course of their
22 business have your water use data, do they?

23 A. They probably would not, unless they solicited
24 it.

25 Q. And you spoke to Mr. Bourassa and revised the

1 calculation; and if I understand correctly, your rate as
2 proposed would be roughly \$600 a month, \$7,200 a year?

3 A. That's what it looked like.

4 Q. Okay. That's all I have at this time. Thank
5 you.

6 ACALJ NODES: Mr. Wakefield, any questions?

7 MR. WAKEFIELD: No questions.

8 ACALJ NODES: Ms. Wood?

9 MS. WOOD: No questions, Your Honor.

10 ACALJ NODES: Mr. Torrey?

11 MR. TORREY: No questions, Your Honor.

12

13 FURTHER EXAMINATION

14

15 BY ACALJ NODES:

16 Q. Okay. Can I ask, what is your current rate?

17 A. I want to say it's \$39.40.

18 Q. \$39.40 a month flat rate?

19 A. That's what --

20 Q. So it would, at least under the Company's
21 proposed revenue requirement, increase to \$600 a month,
22 roughly?

23 A. It would be a significant increase, very
24 significant.

25 Q. Okay.

1 A. It's not in the range where they say the average
2 bill for a commercial customer will increase from \$103 per
3 month to \$163 per month.

4 Q. All right. Okay. Well, as you know, the
5 Company's witnesses will be testifying as well, and there
6 will be questions asked of them. So if you are here, you
7 will have an opportunity to ask questions of the
8 witnesses; and if you're not here, other parties will be
9 asking questions, so just to give you an idea. Okay?

10 A. Okay.

11 Q. Anything further that you want to state that you
12 haven't?

13 A. I think I've covered it. It's all about
14 Engineering Bulletin No. 12, and it's just not applicable,
15 probably never has been, to my dental practice.

16 Q. Okay. All right. Thank you very much, and you
17 are excused.

18 ACALJ NODES: I believe I admitted the exhibits
19 1, 2, 3, if not, I will admit them now.

20 (Doelle Exhibits 1, 2 and 3 were admitted into
21 evidence.)

22 MS. WOOD: Your Honor, if I may ask, what is the
23 description of Doelle Exhibit Number 1?

24 ACALJ NODES: It was labeled Intervenor's
25 Testimony and Exhibits filed on July 20, 2009.

1 MS. WOOD: Thank you.

2 ACALJ NODES: Okay. Mr. Shapiro, do you want to
3 call your first witness.

4 MR. SHAPIRO: Yes, we'll call Mr. Greg Sorensen.

5

6 GREGORY SCOTT SORENSEN

7 called as a witness herein, having been first duly sworn
8 by the Certified Reporter to speak the truth and nothing
9 but the truth, was examined and testified as follows:

10

11 DIRECT EXAMINATION

12

13 BY MR. SHAPIRO:

14 Q. Good afternoon, Mr. Sorensen. Would you go
15 ahead and please state your full name and your business
16 address for the record.

17 A. Yes, Gregory Scott Sorensen. Business address
18 is 12725 West Indian School Road, Suite D-101, Avondale,
19 Arizona 85392.

20 Q. Mr. Sorensen, by whom are you employed?

21 A. By Algonquin Water, now referred to as Liberty
22 Water.

23 Q. Just quickly on that note, that was the recent
24 name change that Algonquin Water, which is the shareholder
25 of Black Mountain, recently went through?

1 A. Yes.

2 Q. And you're employed by them. What is your
3 actual title?

4 A. Director of operations for the Western Group.

5 Q. And could you just quickly describe what your
6 area of responsibility is?

7 A. My responsibilities include the overall
8 operations of seven water and wastewater utilities in the
9 State of Arizona, making sure that those operate properly,
10 and provide service to our customers. I also am
11 responsible for the overall business, you know, budgeting,
12 financial results, planning, coordinating with engineers
13 in-house.

14 Q. So you're kind of the overseer of those seven
15 utilities for Arizona?

16 A. Yes.

17 Q. The manager, for lack of a better term?

18 A. Correct.

19 Q. In front of you should be three documents,
20 Mr. Sorensen. Let's start with the one that's been marked
21 for identification as Exhibit A-1. Do you have that
22 there, and is that an accurate copy of your direct
23 testimony?

24 A. It is.

25 Q. And was this testimony marked as Exhibit A-1

1 prepared by you and/or under your direct supervision?

2 A. Yes, it was.

3 Q. Do you have any corrections or changes that you
4 would like to make to Exhibit A-1 at this time?

5 A. No. I just was verifying on page 8 the flows
6 for February of 2005, and I just wanted to confirm that is
7 678,000 gallons. There was a supplemental filing made at
8 one point, and I couldn't remember if it was changing it
9 to 678 or from 678 to another number; but 678 is the
10 proper number.

11 Q. So the version of Exhibit A-1 that you have
12 there already reflects a correction that you've made?

13 A. Yes, it does.

14 Q. And that, just for the record, is on line 9 of
15 page 8?

16 A. Correct.

17 Q. And you have no other changes or comments on
18 that testimony at this time?

19 A. No.

20 Q. The next document you should have there should
21 be Exhibit A-2, Mr. Sorensen. That should be your
22 rebuttal testimony.

23 A. Yes.

24 Q. Is that a true and correct copy of your prefiled
25 rebuttal testimony in this case?

1 A. It is. There is one change that needs to be
2 made to that.

3 Q. Okay.

4 A. On page 12, line 10, it references \$2.61 per
5 thousand gallons, the price that we now pay to the City of
6 Scottsdale for treatment, the base price. That should
7 read \$2.60, 2-6-0.

8 Q. Has the Company provided that corrected
9 information to Staff and RUCO through the process of this
10 case?

11 A. Yes, we have, and our schedules, I believe, have
12 been updated appropriately with that. But since it was in
13 an earlier filed version of testimony, I felt that it
14 should be corrected.

15 Q. And are there any other corrections that you
16 would like to make to Exhibit A-2?

17 A. The same page, \$3.15 then would also be lowered
18 on line 13 to \$3.14.

19 Q. Any other changes to that one?

20 A. No, sir.

21 Q. Do you also have Exhibit A-3 in front of you?

22 A. Yes.

23 Q. Is that a true and correct copy of your prefiled
24 rejoinder testimony in this docket?

25 A. Yes, it is.

1 Q. And were both A-2 and A-3 prepared by you or
2 under your direct supervision?

3 A. Yes, they were.

4 Q. Do you have any corrections to Exhibit A-3?

5 A. No.

6 Q. Mr. Sorensen, with the two corrections that you
7 made to Exhibit A-2, if I were to ask you today the same
8 questions that you were asked in Exhibits A-1, 2 and 3,
9 would your answers be the same today?

10 A. Yes, they would.

11 MR. SHAPIRO: Your Honor, I will move Exhibits
12 A-1, A-2 and A-3.

13 ACALJ NODES: Any objection?

14 (No response.)

15 ACALJ NODES: All right. A-1, 2 and 3 are
16 admitted.

17 (Exhibits A-1, A-2, and A-3 were admitted into
18 evidence.)

19 BY MR. SHAPIRO:

20 Q. Mr. Sorensen, there was a lot of discussion this
21 morning during public comment about your plant and plant
22 capacity. You were here for that?

23 A. Yes, I was.

24 Q. Can you just clarify, so we're clear on the
25 record, what is the Company's available treatment capacity

1 and where does it come from, both the amounts and the
2 sources?

3 A. Our wastewater treatment plant has a capacity of
4 120,000 gallons per day. We also have purchased 400,000
5 gallons of capacity with the City of Scottsdale that's
6 available for treatment.

7 Q. So when somebody said that the plant, your plant
8 treats up to 400,000 gallons daily, that's not quite
9 accurate?

10 A. No, sir.

11 Q. Okay.

12 A. It only will treat up to 120,000 gallons per
13 day. More may flow into the plant, but anything above the
14 120,000 gallon per day figure is essentially bypassed or
15 redirected to the City of Scottsdale.

16 MR. SHAPIRO: Mr. Sorensen is available for
17 cross-examination, Your Honor.

18 ACALJ NODES: All right. Mr. Wakefield.

19 MR. WAKEFIELD: Thank you.

20

21 CROSS-EXAMINATION

22

23 BY MR. WAKEFIELD:

24 Q. Mr. Sorensen, there was a reference made in
25 public comment to Charlie Hernandez. He's an employee of

1 the Company; is that right?

2 A. Yes, he is. He reports directly to me.

3 Q. I just want to make sure in case somebody
4 reading the transcript couldn't figure out from the
5 context whom that person was talking about.

6 I would like to show you what I would request be
7 marked as BHOA Exhibit Number 1 which is excerpts from the
8 last Commission's decision in your last rate case.

9 MR. WAKEFIELD: If I might approach.

10 ACALJ NODES: Sure.

11 MR. SHAPIRO: Judge, since we were going to mark
12 it later, I've offered just to have Mr. Wakefield mark a
13 full copy so we don't have two versions of it in the
14 record.

15 ACALJ NODES: Okay.

16 MR. WAKEFIELD: Just so the record is clear,
17 BHOA-1 is not excerpts, but the entirety of Decision
18 69164.

19 BY MR. WAKEFIELD:

20 Q. Mr. Sorensen, do you recognize that as the
21 Commission's decision from your last rate case?

22 A. Yes.

23 Q. Okay. And if you could turn to page -- well,
24 not right now. We don't need to go to specific pages.

25 In that decision, the Company was required to

1 make certain upgrades to its system to address odor
2 concerns; is that right?

3 A. Yes.

4 Q. And those upgrades involved elimination of what
5 was referred to as the CIE lift station and other
6 improvements to the collection piping; is that correct?

7 A. That's correct.

8 Q. The Company didn't initially support the system
9 improvements that the other parties were proposing in that
10 last rate case; is that correct?

11 A. I believe that that was on the piping that
12 you're referring to, that there was some concern as to
13 whether that would address the odor issue in the most
14 appropriate manner.

15 Q. Okay. And in that case, there wasn't even
16 unanimous agreement that the odors were related only to
17 the collection system in the lift station; is that
18 correct?

19 A. I believe so.

20 Q. Back in that proceeding, there were some who
21 thought that the odor issues also related to the Boulders
22 Wastewater Treatment Plant, in addition to the collection
23 system; is that right?

24 A. Yes, there were concerns over that.

25 Q. But the Commission's resolution in the decision

1 was to only require certain improvements to the collection
2 system and the removal of the CIE lift station; is that
3 right?

4 A. Yes.

5 Q. Mr. Sorensen, you'll see over on the easel here
6 is a map, and it's the same map that was attached to
7 Mr. Peterson's surrebuttal testimony. Are you familiar
8 with that map? If you need it brought closer --

9 A. Yes, I have seen it. If it's possible to bring
10 it closer --

11 Q. Now that's not the entirety of the Company's
12 service territory; is that correct?

13 A. That's correct.

14 Q. Is the location of the CIE lift station even
15 reflected on that map or where the CIE lift station used
16 to be?

17 A. No.

18 Q. Okay. Just relative to what is reflected on the
19 map, is the CIE lift station above it? Is it off to the
20 right, the left, beneath it?

21 A. Sorry, Judge. My understanding is it would be
22 somewhere up in this location.

23 MS. WOOD: Your Honor, if it would be helpful, I
24 have multiple copies of that particular map that was
25 attached to Mr. Peterson's testimony. I'm happy to have

1 the parties mark it if it's useful.

2 ACALJ NODES: Well, if it's already attached to
3 his testimony, I guess everybody can refer to that.

4 MR. WAKEFIELD: That would be fine. I only
5 actually have one other question about the map.

6 BY MR. WAKEFIELD:

7 Q. At the top of the map, parallel to the top of
8 the page in the filed exhibit and to the top of the map is
9 Stagecoach Pass, the name of the road. And can you see
10 the distance between where the Boulders Wastewater
11 Treatment Plant is in the middle of the circle relative to
12 Stagecoach Pass Road? Would the CIE lift station be that
13 distance north of Stagecoach Pass or more than that
14 distance or less than that distance?

15 A. I believe it would be a little bit more.

16 Q. Okay. The work that was required to address the
17 concerns of the last decision, do you recall when that was
18 completed?

19 A. I believe there were two phases or two separate
20 projects. I believe one was completed in roughly May
21 2007, and the other, I'm going to say August or September
22 of 2007.

23 Q. So if I told you that the Company filed a notice
24 of compliance in that docket on September 5, 2007,
25 indicating that the project had been completed, that would

1 be consistent with your memory?

2 A. Yes.

3 Q. And the investment for those two projects was
4 just over a million dollars; is that right?

5 A. That sounds right.

6 Q. And you're seeking recovery for that million
7 dollar investment in this case; is that right?

8 A. Certainly.

9 Q. And that one million dollar investment accounts
10 for about 21.7 percent of the rate increase that you're
11 asking for here; is that right?

12 I'll direct you to your direct testimony at page
13 10, lines 4 to 7.

14 A. Yes. As far as our proposed, our initial
15 proposed rate increase, yes, that's correct.

16 Q. And that million dollar, just over a million
17 dollar investment would result in \$9.90 per month per
18 residential customer; is that right?

19 A. Yes.

20 Q. Do you know if Staff or RUCO have made any
21 adjustments related to the plant that that million, just
22 slightly more than a million dollars worth of plant that
23 you're recommending in this rate case?

24 A. No, they have not.

25 Q. Mr. Sorensen, when the Commission considered the

1 rate case and issued its order in 2006, did you understand
2 that the Commission believed it was solving the entire
3 odor problem?

4 A. It's difficult for me to try and speak for the
5 Commission or the Commissioners. What I recall from the
6 process and from the order is that those were the areas of
7 greatest concern at the time. I don't recall that there
8 was the belief that this would eliminate every odor within
9 the system.

10 Q. If you could look at Exhibit BHOA-1, the
11 Decision 69164, turn to page 43.

12 A. Yes.

13 Q. And in that top order and paragraph there, the
14 Commission orders the Company to pursue these remedies, on
15 line 2 they say in order to mitigate the odor problems.
16 Is that the way the Commission characterizes their order
17 to the Company?

18 A. Odor mitigation project, yes, on line 7.

19 Q. Well, even on line 2, they identify the purpose
20 is in order to mitigate the odor problems; is that right?

21 A. Right.

22 Q. If you could turn back then to page 37 at the
23 footnote number 13, there the Commission characterizes
24 their desired goal as odor remediation in the Boulders
25 community; is that right?

1 A. On which line?

2 Q. The footnote at the very bottom of the page,
3 footnote 13.

4 A. Yes.

5 Q. And similarly at page 37 between lines 18 and
6 21, does the Commission signal to the Company that it
7 wants the entire odor problem solved, even though that
8 might involve more than just the specific corrections that
9 they're requiring at part of this order?

10 A. Yes.

11 Q. At line 23 there also on page 37, the Commission
12 states that we believe action needs to be taken to advance
13 a solution that will enable all customers on the BMSC
14 system to enjoy fully their property without enduring
15 offensive odors.

16 Do you see that language?

17 A. Yes, I do.

18 Q. Does the Company agree with the Commission that
19 all its customers should be able to enjoy their property
20 without offensive odors?

21 A. In general, yes. The qualifier on that is that
22 sometimes one individual may have a differing opinion from
23 other individuals as to what is offensive and life-
24 impacting; but in general, I would agree with that
25 statement, yes.

1 Q. Is the fact that you agree with that generally
2 part of the reason that the Company was willing to work
3 with the homeowners to find a solution to solve the
4 remaining odor problems?

5 A. There are many reasons that we wanted to work
6 with the homeowners, and this is one of those reasons.

7 Q. If the Company had not reached agreement with
8 the homeowners on a plan to remove the plant, do you
9 believe that the Commission, that if the Commission had
10 felt that the plant itself was causing odors to the degree
11 that we've heard about in public comment, that the
12 Commission would order the Company to shut down the
13 treatment plant?

14 MR. SHAPIRO: I'm going to object to that
15 question. It calls for a legal conclusion and speculation
16 about the Commission's future decision.

17 ACALJ NODES: Mr. Wakefield, you want to
18 rephrase the question?

19 BY MR. WAKEFIELD:

20 Q. Based on what the Commission expressed in the
21 last rate case decision, do you believe the Commission
22 might find it appropriate to order the Company to close
23 the plant if the Company had not agreed to close the plant
24 under the terms that it has?

25 A. At risk of trying to predict what the

1 Commissioners would or would not do, it is a possibility
2 that they could have ordered that. The plant in question
3 is used and useful in the provision of service to
4 customers today. It is within regulatory compliance. But
5 there are many aspects of that plant that make it
6 undesirable to have where it is operating today.

7 So the Commissioners may very well have listened
8 to the arguments and ordered such a decision. But I do
9 not know for certain what they would have done.

10 Q. Mr. Sorensen, are you convinced that the odors
11 that the customers experienced as we heard about in public
12 comment today, that those odors originate at the treatment
13 plant itself?

14 A. I would say that the vast majority of odors,
15 yes, originate at the treatment plant. And again, I'll
16 qualify that with the statement that any collection
17 system, whether it be ours, whether it be the City of
18 Phoenix or Scottsdale or anywhere, there will be odors
19 emitted from manholes or from lift stations. Those are
20 much more controllable. We seal our manholes. We inspect
21 our lift station to try and prevent those odors.

22 I would say the majority of the odor concerns
23 from Black Mountain today emanate from that plant.

24 Q. When it is brought to your attention that
25 there's an odor that you think may be related to a manhole

1 or a lift station, is it the Company's practice to seal
2 the manhole or address the problem that it does find may
3 be a part of its collection system?

4 A. Absolutely. And you would have to ask some of
5 your clients. Hopefully, they would respond that the
6 Company is very good at reacting quickly when there is an
7 odor concern or complaint.

8 We do go out there and inspect the area. We
9 have on-call operators so it's not like they have to wait
10 over a weekend typically. If there's a problem, we'll
11 have somebody go out.

12 I know Mr. Hernandez, you referred to earlier,
13 has made many weekend trips up there. He will bring his
14 family and they will go through the area in question and
15 essentially sniff for odors, try to locate manholes. If
16 it's a lift station issue, we'll bring somebody out to fix
17 the problem. And yes, we do seal the manholes to try and
18 restrict or eliminate any fugitive odors from escaping the
19 collection system.

20 Over time, sometimes the seals wear out. You
21 know, a small hole can poke through those. When that
22 happens, when we detect it or when our customers detect
23 it, we'll go back there and reseal the manholes.

24 Q. So are you convinced that shutting down the
25 treatment plant would eliminate the vast majority of the

1 odors that the customers have been complaining about
2 recently?

3 A. I believe it would. And if I may, at some
4 point -- I believe it may have been either discussions or
5 something I saw written from Staff's engineer -- there was
6 concern about a lift station that was also referenced.
7 That lift station is on-site of the plant and pumps sewage
8 that comes from the collection system up to the plant.

9 In the current proposed plan, that lift station
10 along with the plant would be eliminated, so neither the
11 plant nor that on-site lift station would remain. The
12 connectivity for where the wastewater comes into the plant
13 and where the overflow wastewater goes to Scottsdale,
14 those two points would be interconnected with underground
15 piping. So all that would be left on site after, you
16 know, grading and removal of all plant would be
17 essentially natural land with maybe collection system
18 piping underneath flowing via gravity.

19 Q. Mr. Sorensen, about 20 percent of the Company's
20 total wastewater is treated at Boulders Wastewater
21 Treatment Plant; is that right?

22 A. That's about right.

23 Q. And you treat as much of the wastewater at that
24 plant as you can, correct?

25 A. Yes.

1 Q. But the plant is only permitted by ADEQ to treat
2 up to 120,000 gallons a day, right?

3 A. Yes.

4 Q. And the other 80 percent is treated at
5 Scottsdale's Wastewater Treatment Plant; is that correct?

6 A. That's correct.

7 Q. And the Company has a contract specifying the
8 terms under which Scottsdale treats that wastewater; is
9 that right?

10 A. Yes. There's a 1996 agreement, I agree.

11 Q. I've got a copy that we'll look at right now.

12 MR. WAKEFIELD: I'll ask this be marked as BHOA
13 Exhibit Number 2.

14 BY MR. WAKEFIELD:

15 Q. Mr. Sorensen, do you recognize Exhibit BHOA
16 Number 2 as the agreement between the Company, actually
17 the Company's predecessor and the City of Scottsdale?

18 A. Yes.

19 Q. And the Company, Company's predecessor entered
20 that agreement with Scottsdale -- I'm going to refer to it
21 as the Scottsdale agreement here in my questions, so the
22 record is clear. You entered the Scottsdale agreement in
23 1996; is that right?

24 A. Correct. It states agreement made as of the 1st
25 day of April, 1996.

1 Q. And it's effective for 20 years or through 2016;
2 is that right?

3 A. Correct.

4 Q. And it also provides for the possibility of
5 five-year, renewal terms of five-year increments if the
6 parties agree to that; is that right?

7 A. I believe through mutual agreement, yes.

8 Q. And one of the terms of the Scottsdale agreement
9 is that the Company can purchase additional capacity from
10 Scottsdale for six dollars per gallon capacity charge; is
11 that right?

12 A. For the term of this agreement, yes, up to, I
13 believe up to a million gallons total.

14 Q. And that six dollar per gallon charge is a
15 one-time capacity charge, right? You're not paying that
16 to the Company repeatedly for the same capacity, correct?

17 A. Correct.

18 Q. And once you pay the six dollars per gallon to
19 the City for that capacity, the Company is entitled to
20 that capacity as long as the Scottsdale plant continues to
21 operate; is that right?

22 A. That is my understanding and discussions with
23 the City of Scottsdale, yes. Although you referred to as
24 long as the Scottsdale plant is operating. I'm not
25 certain that this agreement states whether it's any

1 particular plant within Scottsdale.

2 Q. So if there are no renewals to this agreement,
3 then in 2017 the Company will still be entitled to have
4 400,000 gallons per day that you currently have purchased
5 from Scottsdale? You would still be entitled to send that
6 wastewater to Scottsdale for treatment?

7 A. That's my understanding, yes.

8 Q. How does the six dollar per gallon capacity
9 charge under the Scottsdale agreement compare to market
10 rates for treatment capacity either from Scottsdale or
11 from other plants that might be available to treat the
12 Company's wastewater?

13 A. Very favorably. My discussions with Scottsdale,
14 Scottsdale representatives that I speak with periodically,
15 they believe that we have a screaming bargain right now.
16 Their current rate for a developer buying capacity is
17 \$18.26 per gallon or just roughly over three times what we
18 have the right to purchase it at today.

19 We've had some discussions with Town of Cave
20 Creek that is contemplating building a facility, water
21 reclamation facility. The ballpark costs if we were to
22 participate in that with them to buy capacity would be in
23 the 30 dollar per gallon range.

24 Q. When the Scottsdale agreement reaches its term
25 in 2016, do you think it's likely that Scottsdale would

1 renew it on the same terms so that you could continue to
2 purchase additional capacity at six dollars a gallon?

3 A. In my discussions with Scottsdale
4 representatives, that would be a nonstarter in their
5 opinion. There is almost no likelihood that we would be
6 able to continue that portion of the agreement. They've
7 indicated a willingness to continue certainly the
8 agreement in general; but additional capacity purchased
9 beyond that, it's been indicated that it would be at the
10 market rates whatever it is that we do purchase beyond
11 2016.

12 Q. So if the Boulders Wastewater Treatment Plant
13 were not shut down before 2016 but then did get shut down
14 sometime after 2016, it would cost a lot more for the
15 Company to acquire the rights, the capacity to treat the
16 sewage somewhere else after 2016 than it does currently;
17 is that correct?

18 A. Yes, if you assume the rate that we could, the
19 Scottsdale's market rate today were still available in
20 2017 or 18 or 19, rather than the capacity being \$720,000,
21 you would see probably about 2.2 million in cost roughly.

22 Q. I think Mr. Bourassa has estimated in his
23 testimony that the total investment that you think would
24 be necessary in order to close the plant and acquire the
25 capacity from Scottsdale pursuant to the settlement

1 agreement is maybe in the range of 1.5 million. The
2 acquisition of the capacity from Scottsdale is nearly half
3 of that; is that correct?

4 A. The estimate is probably in the range of one and
5 a half to two million cost, and the \$720,000 for the
6 Scottsdale capacity is certainly part of that, a
7 significant part of that to go along with the cost of
8 eliminating the plant itself, the closure of the plant,
9 the remediation of the site back to its natural state
10 ready for a developer to buy and develop, as well as costs
11 that would need to be incurred to convey the incremental
12 sewage downstream to the interconnect point with
13 Scottsdale.

14 Q. Mr. Sorensen, the Company has an agreement with
15 the Boulders Resort to sell to the Resort all of the
16 effluent produced at the Boulders Wastewater Treatment
17 Plant; is that right?

18 A. That is correct.

19 MR. WAKEFIELD: And let me ask that that
20 agreement be marked as BHOA-3. If I might approach.

21 ACALJ NODES: Yes.

22 BY MR. WAKEFIELD:

23 Q. Do you recognize Exhibit BHOA-3 as the agreement
24 between the Company and the Resort?

25 A. Yes.

1 Q. In my questions I'm going to refer to this
2 agreement as the Resort Agreement.

3 Now the Resort uses the effluent that it
4 purchases from the Company to irrigate its golf courses;
5 is that right?

6 A. It's part of their supply, but yes.

7 Q. Do you have any idea as to what percentage of
8 the supply it represents for them?

9 A. I've heard -- it's hearsay, but I had heard
10 roughly ten percent, in that range.

11 Q. And do you know if any of the other sources that
12 the Resort has for the water it needs to irrigate its golf
13 courses, does any of that, is any of that wastewater that
14 comes from the Scottsdale Treatment Plant?

15 A. My understanding is yes, it is.

16 Q. So it's your understanding that there's some
17 piping that already gets effluent from the Scottsdale
18 Treatment Plant up to the Resort; is that correct?

19 A. Yes.

20 Q. And the Resort Agreement is in effect through
21 2021; is that correct? I'll refer you to page 8 of the
22 agreement. In Section 11, the term is 20 years, and it
23 was signed in 2001; is that right?

24 A. Yes.

25 Q. And the Resort Agreement requires the Company to

1 sell to the Resort all the effluent from the Boulders
2 plant; is that right?

3 A. That's correct.

4 Q. And it requires the Resort to purchase all of
5 the effluent from the Boulders plant; is that right?

6 A. That is correct. I can't remember if it's
7 contractual, whether it's just operational. There may be
8 from time to time where either the plant has to be taken
9 down for repair or there can also be some limited times,
10 usually due to high rain events, where the Resort cannot
11 take the effluent flow coming from the plant; but outside
12 of those circumstances, yes.

13 Q. When there's an event that prevents the Company
14 from providing effluent from the plant to the Resort, like
15 what kind of duration of those events are we talking? Are
16 those a few days, a few weeks at a time?

17 A. Typically you would see a few days. A high rain
18 event would preclude them from needing the effluent water
19 to irrigate their golf course. In such case, we
20 essentially bypass all the flows to Scottsdale for that
21 period because we have no other alternative for the
22 effluent discharge.

23 Q. So it is possible for the Company to flow all of
24 its wastewater flows down to the City of Scottsdale rather
25 than treating any of them at the Boulders plant; is that

1 what I'm hearing?

2 A. Currently, my -- yes, it's physically possible
3 right now, but not what we would call an ideal
4 circumstance. I say that because with the increased flow,
5 there can be -- and this is from discussions with some
6 engineers that we've had come out and at least do some
7 very preliminary assessments. You can end up having a
8 situation where you create wastewater churn in the
9 collection system. That churn is going to release more
10 odor within the collection system, and so you have more of
11 a potential for odors to occur downstream, which is why
12 earlier I mentioned that there is costs of some
13 reconfiguration of piping downstream from the plant,
14 between our plant and the interconnection point at
15 Scottsdale, because if this were going to be done on a
16 permanent basis, you would want to address those concerns
17 before you create a situation where there would be odor
18 from the collection system.

19 Q. I'm going to refer you to page 5 of the Resort
20 Agreement, Exhibit Number 3. And pursuant to paragraph
21 6(a) there, the Company has covenanted to operate Boulders
22 Wastewater Treatment Plant so that it will be able to
23 deliver the effluent to the Resort; is that correct?

24 A. That is correct.

25 Q. Under paragraph 6(d) the Company covenants not

1 to take any action to reduce the treatment plant's
2 capacity; is that correct?

3 A. Uh-huh.

4 Q. And in light of those two provisions, do you
5 believe that the Company could just decide to shut down
6 Boulders Wastewater Treatment Plant on a permanent basis?

7 A. Based upon those covenants, no, which is why we
8 have, along with the homeowners association, approached
9 the Boulders Resort to try and get a solution worked out
10 for them so that they will agree to essentially terminate
11 this agreement at the same time as the plant closure.

12 Q. And after you get through (a) through (d) of
13 paragraph 6 there in the agreement, that next sentence,
14 does that provide that the Company's obligations in 6(a)
15 through (d) would be terminated if there were some
16 regulatory requirement to shut down the plant?

17 MR. SHAPIRO: I'm sorry, can you have the
18 question read back, please.

19 (The record was read by the Certified Reporter
20 as requested.)

21 MR. SHAPIRO: Your Honor, I need to interpose an
22 objection. I think that calls for a legal interpretation
23 of the contract. I don't oppose Mr. Sorensen giving his
24 own view, but he's not qualified to give a legal opinion
25 interpreting contract provisions.

1 ACALJ NODES: You can offer a nonlegal opinion,
2 if you can, Mr. Sorensen, in response.

3 THE WITNESS: Okay. Thank you, Judge. Give me
4 a moment to reread the clause.

5 BY MR. WAKEFIELD:

6 Q. Sure, take your time.

7 A. As stated, I'm not an attorney, so take this for
8 what it's worth. The words there, particularly when you
9 talk about the word "orders" and used in the same sentence
10 as regulatory requirements, would seem to indicate that
11 there may have been contemplation in this, although I was
12 not party to the agreement when it was written, but on the
13 surface it would seem as if there may be an argument for
14 an out from this agreement if ordered by a regulatory body
15 such as the Commission.

16 Q. Or in the alternative, if ADEQ found some reason
17 to order you to close the plant, then it looks to you like
18 you would be excused from your obligations under this
19 agreement; is that right?

20 A. Someone like ADEQ or Maricopa County, although
21 I'll point out that the plant currently operates in
22 compliance with both ADEQ and Maricopa County rules and
23 regulations. But yes, ostensibly, they would be under
24 bodies that could order such.

25 Q. Okay. Thank you, Mr. Sorensen. Those are all

1 my questions, and I would like to move the admission of
2 the three exhibits, BHOA-1, 2 and 3.

3 ACALJ NODES: Any objections?

4 (No response.)

5 ACALJ NODES: Okay, BHOA Exhibits 1, 2 and 3 are
6 admitted.

7 (Exhibits BHOA 1, 2 and 3 were admitted into
8 evidence.)

9 ACALJ NODES: Ms. Wood.

10

11 CROSS-EXAMINATION

12

13 BY MS. WOOD:

14 Q. Good afternoon, Mr. Sorensen. I want to start
15 by saying thank you for giving RUCO and Staff a tour of
16 your facility this past week. It was very kind of you to
17 do.

18 I want to start next with a set of questions
19 related to the homeowner agreement.

20 With regard to actually the agreement with the
21 golf course or the Resort, I guess you refer to it.

22 ACALJ NODES: Mr. Sorensen, do you have a copy
23 of that settlement agreement?

24 A. Are you referring to the BHOA-3 exhibit?

25 Q. I am, the exhibit just last entered. Have you

1 discussed the BHOA agreement with the Resort and your
2 plans to close, or if the Commission approves it, to close
3 the plant and retire the plant? Have you discussed that
4 with them?

5 A. We have discussed the concept. We have
6 discussed some of the general steps that we would have to
7 take in order to close that plant. We brought -- we met
8 with Tom McCann who is, I think -- I don't know if he's
9 executive director or director of the Boulders Resort --
10 well, the Boulders Resort, and brought to his attention
11 that this would then essentially be eliminating the
12 effluent that they use, you know, from us, that they use
13 for the irrigation, in part, of their course.

14 We wanted to bring that to his attention because
15 he's a significant stakeholder or his resort is a
16 significant stakeholder essentially from a usage
17 standpoint, in this plant. But there has been a
18 possibility identified, the Town and Boulders Homeowners
19 Association has identified a possible source along with
20 the City of Scottsdale of some additional shares of water
21 that might be available held by Desert Mountain Golf Club
22 that in theory could be sold to Boulders Resort, giving
23 them increased capacity. But that they would then swap
24 out -- rather than using the CAP water, which this would
25 be, they would then get a partial share of Desert

1 Mountain's effluent right from the City of Scottsdale; and
2 since those pipes are already in place, that would be an
3 easier thing than putting in pipeline from CAP to the
4 Boulders Golf Club.

5 So those things have been discussed, but nothing
6 has been finalized; and I've spoken with Mr. McCann as
7 recently as yesterday, and we're trying to set up meetings
8 between all parties to further our efforts and put a
9 little more firmness to this situation.

10 Q. And whether the retirement of the plant is
11 through an order or by the virtue of the agreement being
12 approved, is the Resort opposed to the retirement of the
13 plant?

14 A. Not that they have mentioned to me, outside of
15 the effluent concern that I've expressed. I think in
16 general they are supportive of this from a resort
17 perspective as was heard from the customers, our customers
18 that came down here that play golf at the Resort. It
19 would help the Resort from the aesthetics viewpoint.
20 There are two, three holes that are right there adjacent
21 to the plant. Referring on the map, I believe it's --

22 Q. Could you just point to them?

23 A. Certainly. There's the Number 2 tee here that's
24 in back of the plant, Number 8 green that's in back of the
25 plant; and then you have, I believe this is number 3. I'm

1 sorry, number 1 and number 9 tee box and green that are
2 across the street from the plant.

3 So anybody who is playing golf at the Resort
4 goes by that location three to four times a round playing
5 on the North Course.

6 Q. And so in fact, there is a golf cart path on the
7 west side of the plant boundary, correct?

8 A. On the west side and also along part of the
9 north side.

10 Q. Okay. And so you don't expect that the Resort
11 will oppose the retirement of the plant?

12 A. I believe as long as their effluent source
13 concern is taken care of, I believe that, if anything,
14 they would be in favor of that, and -- yes, they would be
15 in favor of it.

16 Q. Okay. Now, I wanted to also ask you, the
17 Company doesn't have any pending ADEQ or Maricopa County
18 governmental order directing it to retire this plant,
19 correct?

20 A. No. Certainly not that I'm aware of, no.

21 Q. The rationale for the closure is to address the
22 fugitive odors that are associated with the plant that are
23 disturbing to the surrounding community, correct?

24 A. Yes. These are odors that are emitted even
25 though while the plant is in compliance with rules and

1 regulations, there are still odors that are emitted from
2 it; and there are homes excruciatingly close to an
3 operating wastewater plant.

4 Q. And those, I think you told us, those homes were
5 built after the system was in place or the system was in
6 place beforehand, or how did that work out? Do you know?

7 A. Ma'am, unfortunately, I cannot tell you the
8 order back in the early '70s, late '60s as far as which
9 came first. I do not know.

10 Q. How many odor complaints has the Company
11 received since the last rate case on average, if you can
12 average it by month, by year, whatever manner you keep the
13 information?

14 A. I certainly can't come up with a specific
15 number, but I would say it can range from several in a
16 week, we could have, if -- you know, as I think was
17 mentioned earlier, during the cooler months that we're
18 entering now, you get almost like an inversion. It's
19 particularly -- and it essentially traps any odors from
20 the plant in the near vicinity. And if you don't have
21 wind that takes those odors away and disperses them,
22 you'll get a collection of naturally occurring odors from
23 a sewer plant. They'll get trapped in the area, and it's
24 more prevalent during the early morning hours and the
25 evening hours, and particularly for anybody who is

1 working, those are the typical times they're home.

2 It also is during the time when people are
3 trying to be outside or trying to eat dinner or breakfast
4 on patios. As we've spoken to our customers, time and
5 time again that seems to be their concern, and we
6 understand it.

7 Q. Do you still receive complaints regarding the
8 collection system as opposed to the wastewater treatment
9 plant?

10 A. Much more infrequently. As I said earlier, I
11 will never, either on or off the stand, tell you that a
12 collection system anywhere is going to be a hundred
13 percent odor-free. That's just the nature of what's
14 flowing through that collection system. But what I can
15 tell you is that the Company is making great efforts to
16 reduce and minimize any odors that come from that
17 collection system through the use of routine maintenance,
18 through manhole sealing, and through, you know, inspection
19 and maintenance of the lift stations. We're making every
20 effort to reduce or eliminate. We certainly don't want to
21 be offending our customers with odors; and particularly
22 over the past few years, I think we've made some great
23 strides in trying to control or mitigate or work towards
24 eliminating all those odors.

25 But again, that's kind of for our customers to

1 make the final judgment because it's their nose that's
2 smelling it. But we make every effort to do so.

3 Q. Okay. Since the last rate case, as part of this
4 odor mediation process, the Company spent, I think, about
5 \$2,041,000 in odor control measures between the CIE lift
6 station removal and the Boulder Drive air jumpers and
7 pipelines, the Quartz Valley sewer line, grinder pump
8 station and odor scrubber at the wastewater treatment
9 plant, and those other items that you identified in your
10 direct testimony. Would that be correct?

11 A. Yes, although not all of those are strictly
12 related to odor control. Certainly the CIE project and
13 the Boulder Drive projects were, those were ordered by the
14 Commission in the last rate case.

15 The Quartz Drive odor project obviously was a
16 result of when we were doing the work for the Boulders
17 Drive project that was ordered, an unintended consequence
18 was that it tended to push a little bit of the air onto
19 Quartz Drive. So there was a follow-up project that was
20 needed to address still the odor collection system.

21 While that was not odor -- pardon me for the
22 slip. While that was not ordered by the Commission, it
23 was certainly in the spirit of what the Commission had
24 ordered in that case, and we felt it best not to question
25 it, but to go and take care of the problem for our

1 customers.

2 Other components of that \$2,041,000 that you
3 referred to, I believe, is capacity from the City of
4 Scottsdale.

5 Q. Okay. And that is -- I will address that in
6 just a moment, but can you tell me approximately how much
7 you spent on odor control measures and the project at
8 Quartz Valley and the wastewater treatment plant odor
9 scrubbers? Was it approximately \$2,000,000?

10 A. No. Let's see. Pardon me as I add it up.

11 Q. Sure, thank you.

12 A. I would say roughly 1.25 million if you add the
13 CIE project, the Boulders Drive project, the Quartz Drive
14 odor project, and then the roughly \$36,000 for the odor
15 scrubber that was transferred from our Litchfield Park
16 Service Company facility to Black Mountain and installed
17 at the plant.

18 Q. Now, did the Company receive a cost recovery or
19 have some sort of cost recovery mechanism for that
20 expenditure? Did you? I guess I'll just stop my question
21 there.

22 A. No, there was none included within the last
23 order.

24 Q. Do you know what the total expense will be for
25 the retirement of the plant and redirection of the flows

1 to the City of Scottsdale?

2 A. We have estimated costs, but those are just
3 estimates in the 1.5 million to 2 million range. But
4 again, those are estimates.

5 Q. And the number could be higher?

6 A. Could be higher, could be lower. It's the
7 nature of estimates.

8 Q. Now, I've heard some different numbers here, and
9 I'm just trying to clarify. I understood from looking at
10 the plant that there's four -- do you call them sequential
11 batch trains or batch trains or --

12 A. They're process trains essentially, yes.

13 Q. Four process trains have the capacity of
14 handling 40,000 gallons per day, but the APP or the
15 aquifer protection permit for this facility is 120,000
16 gallons per day?

17 A. Yes, ma'am, that's absolutely correct. Today
18 three of those trains are operating and one is not. There
19 was essentially an air supply piping or hose in the bottom
20 of one of those tanks, process trains that has failed.
21 You have a redundant tank so that if one tank fails,
22 you're still able to operate the 120,000 gallons per day
23 that we're permitted to do.

24 Today we're able to operate at 120,000 gallons
25 per day even with that one train out.

1 Q. How long has that train been out?

2 A. Roughly a week.

3 Q. Okay. So I had heard some public comment
4 earlier about that. I'm not sure if it was from one of
5 the parties or one of the other members of the public. I
6 can't recall. But I remember hearing something about
7 that. So it's been out about a week?

8 A. Yes, ma'am, it is. We've had a hard time. It
9 was a combination of an air system in the tank combined
10 with a valve essentially broke, snapped off; and we need
11 the valve fixed and replaced first before we can address
12 the process train. The valve has been replaced, and now
13 we're working on the air system in the process train.

14 Q. And the other three trains, though, handle
15 120,000 gallons per day?

16 A. Yes, ma'am.

17 Q. I think -- I think you've given figures about
18 what your total treatment capacity purchase from the City
19 of Scottsdale is. What is your total treatment capacity
20 from the City of Scottsdale?

21 A. 400,000 gallons that we have purchased to date.

22 Q. Now, there was some direct testimony about some
23 purchase and then some relinquishing of capacity. Can you
24 tell us -- your capacity right now is 399,049 gallons per
25 day; is that right?

1 A. No. Our capacity that we purchased from
2 Scottsdale is 400,000 gallons of capacity.

3 Q. How much of that capacity is used to serve the
4 customers outside of the Boulders community?

5 A. I don't know off the top of my head as far as
6 the split between wastewater overflow coming from Boulders
7 community and then flowing on to Scottsdale versus
8 wastewater flows going directly to Scottsdale. In other
9 words, something that would be flowing into our system
10 from south of the wastewater treatment plant wouldn't be
11 bypassed from the plant. It would go directly to, through
12 our interconnection point with Scottsdale to Scottsdale
13 for treatment. But I certainly don't have those figures
14 off the top of my head as far as which proportion those
15 are.

16 Q. What's the average peak flow at the Boulders
17 Treatment Plant that would be directed to Scottsdale?

18 A. Well in excess -- hmm. Well in excess of the
19 120,000 gallons per day, but I cannot tell you sitting
20 here at this moment. It's something I can try and find
21 out but I don't have in front of me, and it's not a number
22 that I carry in my head. But I know even during the low
23 flow period for the year, which would be when it's
24 hottest, June, July, August, even then we're still
25 processing 120,000 gallons per day at the wastewater

1 treatment plant; and I don't like using the word
2 "overflow" in relation to a sewer, but anything above
3 120,000 is directed to Scottsdale, and even during lowest
4 flow days we're still directing to Scottsdale.

5 Q. What is the capacity of the diversion line that
6 currently exists to direct flows to the City of
7 Scottsdale?

8 A. I cannot give you a straight gallon-per-day
9 figure. What we have had to this juncture is some third
10 party's engineer, not in-house, do a preliminary review of
11 the situation. What they're telling us is that there are
12 certain sections of the pipe that need to be reconfigured
13 in order to allow the incremental flow on a permanent
14 basis to go where it's supposed to without creating
15 additional odors in the collection system.

16 Q. What is the highest amount of flow that you have
17 diverted to the City of Scottsdale?

18 A. Throughout history?

19 Q. Yes. I think you've been there for four years?

20 A. I've been there four years.

21 Q. During your --

22 A. Actually as you'll note in the testimony, when
23 we say diverted, I can speak to the total amount that has
24 hit the Scottsdale interconnection point on a month basis,
25 and that was the 678,000 gallons in roughly February of

1 2005.

2 Q. Okay. Is that the amount of effluent that was
3 diverted to Scottsdale from the Boulders community?

4 A. No. That is the total amount of influent that
5 was delivered to Scottsdale on an average basis during the
6 month of February 2005. So if you add up the total
7 influent sewage that was transmitted to Scottsdale for the
8 month, divide by 28 in that case, that's the average that
9 was delivered over the month.

10 Q. Okay. Do you have the figure of how much or
11 what the highest amount of effluent that was diverted from
12 the Boulders diversion pipe to the City of Scottsdale? Do
13 you collect that information?

14 A. I don't have that. I can see if it's available,
15 but I do not have that.

16 Q. Okay. Thank you. Is it your expectation that
17 the odors from your collection system and wastewater
18 treatment plant would be less if the flows were diverted
19 to the City of Scottsdale?

20 A. If the plant were eliminated?

21 Q. Correct.

22 A. My expectation would be yes, that the odors
23 emitted from the plant would certainly be less if the
24 plant weren't there and the remediation and burying of the
25 collection system pipes on that site were completed as

1 anticipated. Yes, at that point what you would be left
2 with is underground pipes and potentially a manhole.
3 There wouldn't be a lift station on site, and there
4 wouldn't be a plant on site.

5 Q. During the time that you've been employed or, if
6 you know, prior to the date of your employment, has there
7 been a point at which either the Boulders Resort was
8 unable to take any effluent or you were unable to send the
9 effluent to them, where you had to shut down your plant
10 for a period of time and divert all of the flows to the
11 City of Scottsdale?

12 A. Yes, there have certainly been points during
13 that time.

14 Q. And you were able to physically do that?

15 A. For a short period of time we're able to
16 physically do that, yes.

17 Q. You discussed with Mr. Wakefield the agreement
18 you have with the City of Scottsdale to purchase an
19 additional capacity. Is there anything in the terms of
20 that agreement that would prevent you from purchasing
21 capacity in incremental amounts as opposed to the entire,
22 I guess you're expecting to spend \$720,000 on an
23 additional 120,000 gallons per day?

24 A. We can purchase in increments; but if we
25 eliminate 120,000 gallons of treatment that's being fully

1 utilized throughout the year, that sewage has to be
2 treated somewhere, and that somewhere left would be
3 Scottsdale. So yes, the anticipation is that we would
4 have to purchase the 120,000 gallons with Scottsdale to
5 replace 120,000 gallons that's going away.

6 Q. You have until 2016 to do that at the current
7 price of six dollars per thousand gallons, correct?

8 A. You do, except for the fact that if during any
9 month of the year you on average exceed what you purchased
10 already for capacity, there's an automatic trigger that
11 requires us to then buy the capacity differential that we
12 essentially used above what we had already paid for.

13 So taking the plant closure out of it for a
14 moment, if during the month of March 2010, we sent on
15 average 450,000 gallons of influent on a daily basis to
16 the City of Scottsdale through our interconnect point, we
17 would have to buy another 50,000 gallons capacity at six
18 dollars per, \$300,000, we would have to write a check to
19 the City of Scottsdale. So, ostensibly, if you close
20 120,000 gallon fully utilized plant, you're going to have
21 another 120,000 gallons going through that intersection
22 point to the City of Scottsdale, and that will trigger the
23 payment to City of Scottsdale.

24 Q. If you don't close the plant right away, but you
25 just divert greater increment of your flow to the City of

1 Scottsdale, you could do that and buy the capacity in
2 increments, correct?

3 A. Yes, you certainly could, but that would not --
4 you would still be left with an operating wastewater plant
5 there in the middle of a residential community, less than
6 a hundred feet from the nearest home, and that plant would
7 still be operating within compliance with ADEQ, Maricopa
8 County, et cetera. It would still be emitting the same
9 types of odors that are being emitted today that, based
10 upon our discussions with residents, are causing them
11 great concern.

12 Q. Now, the Company has a monitoring system for
13 certain types of odors, correct?

14 A. Absolutely. After the last rate case, and I
15 think it's in my testimony as to the particular dates, but
16 we purchased what's referred to as odor loggers.
17 Essentially, these are devices that we hang in almost what
18 looks like a large foot and a half or two foot metal
19 lantern-looking device. We'll hang those either off of
20 trees around the boundary of our wastewater treatment
21 plant or off the fence, or they are portable, so we can
22 move them to a particular area of our system if there's
23 any odors that are generating complaints in that
24 particular locale.

25 And what those do is they take intermittent

1 breaths, for lack of a better word, of the ambient air,
2 and it measures the concentration of H₂S or hydrogen
3 sulfide in the air. That is the primary measurable air
4 quality constituent that we're regulated on.

5 So that information is captured essentially
6 within a memory or computer device within the odor logger
7 and could be downloaded by the Company to review the
8 results of that. We cannot change the data in there.
9 That's why it's a good objective device, even -- you know,
10 the Company is not inclined to ever do so; but if anyone
11 were ever suspicious, we can't change the data in there.
12 It's captured, and it's recorded.

13 Q. Now, has the Company had any reported incidents
14 of fugitive odors as reported by these devices since the
15 end of the test year?

16 A. I don't believe since the end of the test year.
17 But I believe that there were a couple of -- ma'am, let me
18 revise that. I don't recall the specific dates. There
19 have been since installation of the odor loggers -- maybe
20 I can better answer it that way. Since installation of
21 the odor loggers, there have been a couple of events where
22 there has been a brief spike on the odor logger. Nothing
23 that would constitute a violation per Maricopa County, but
24 certainly something or a measure of hydrogen sulfide that
25 the odor logger detected, a brief period of time, but

1 there was a spike, but there were a couple spikes there.

2 And so yes, there was something detected, absolutely.

3 Q. And there were a couple of those, and they only
4 record after the odor has been present or the chemicals, I
5 guess, are in the air for 30 minutes?

6 A. No, no, that's -- the 30 minute reference is
7 part of the regulation.

8 Q. Oh.

9 A. And that is you have a violation if you have a
10 30 part per billion detection at your fence line or odor
11 easement boundary for greater than a 30-minute period.
12 The detections that we've had have not exceeded that.

13 As I mentioned before, there were spikes there
14 where it was noticeable, detectable; and whether that's,
15 you know, ten parts per billion for three minutes or
16 whatever, it would record that. And what that does, it
17 gives us an indication of where, you know, what's coming
18 in the air. We'll put those, like I said, in an area
19 where odors have been detected to see if we can identify
20 it, if it's occurring at certain times, certain
21 concentrations, and it's a way for us to kind of help
22 track things down.

23 Q. Have you had any reports since you started using
24 those monitors that -- I think you said you did not have
25 any of those violations? You've had no odor violations or

1 anything that you had to report?

2 A. No, there have been no violations, but that's
3 not to say that there haven't been odors. It is an active
4 wastewater plant. There will be odors. We try to
5 minimize them, but there will be odors.

6 Q. How many of your -- I think you said in your
7 testimony, or perhaps it was Mr. Bourassa, that there's
8 approximately 2,200 ratepayers?

9 A. Roughly 2,200 customers on our system.

10 Q. Customers, sorry about that. How many of them
11 live in the Boulders Homeowners Association?

12 A. I can give some approximate amounts, but that
13 may be a better question left for the homeowners
14 association witness. My recollection is that was spelled
15 out on the agreement between the parties that was attached
16 to Mr. Peterson's testimony, and that might have even been
17 one of the recitals, but I can't remember the number off
18 the top of my head.

19 Q. Do you know percentagewise, roughly?

20 A. The Boulders North -- ma'am, I have two numbers
21 that are going through my head, and I don't want to give
22 you an improper number. If possible, can it either be
23 something subject to check or can it be something that you
24 request of the Boulders Homeowners Association, which I
25 would imagine they would probably have that figure?

1 ACALJ NODES: Let's take a ten-minute break.

2 (Recessed from 2:25 to 2:38 p.m.)

3 ACALJ NODES: Let's get started again, Ms. Wood.

4 MS. WOOD: Thank you, Your Honor.

5 BY MS. WOOD:

6 Q. Good afternoon, again, Mr. Sorensen. I want to
7 keep going here.

8 Subject to check, would you accept that based on
9 the testimony of Mr. Peterson that there are 332 homes in
10 the community known as Boulders Homeowners Association or
11 the North Boulders Community?

12 A. Subject to check, yes.

13 Q. Is it the expectation by virtue of the cost
14 recovery mechanism that would apply to just those 332
15 homeowners, or do you believe that it would apply to the
16 entire ratepayers, all ratepayers?

17 A. In a similar manner to the demolition and
18 extraction of the CIE lift station under the last
19 Commission order, the cost of that would be applied across
20 all ratepayers. I would envision the same thing for this,
21 for the plant removal, that the costs would be borne by
22 the entire system.

23 Q. Do you have any evidence or engineering reports
24 with you today that would demonstrate that the existing
25 diversion pipe cannot handle the full 120,000 gallons per

1 day?

2 A. With me today? No, absolutely not.

3 Q. Going back to the issue related to the Boulders
4 Resort Agreement, what will the expense be to the Company,
5 if any, if you stop providing them with effluent?

6 A. Let me try and understand the question with a
7 question. Do you mean if we, without notice, breached the
8 agreement?

9 Q. No, I mean -- let me explain further.

10 A. Please.

11 Q. Or clarify more. If, as you are suggesting in
12 this case, the plant is retired and Boulders needs to
13 obtain water from, I think you said Desert Mountain --

14 A. Yes.

15 Q. -- what would be the cost to the Company for
16 Boulders to receive water from a source other than you?

17 A. I believe the goal and discussion within the
18 agreement is that there would be little or no cost to the
19 Company, and then, in turn, to the ratepayers for that
20 effluent. I believe the intent would be then the cost of
21 that replacement effluent supply would be borne by the
22 Boulders.

23 The benefit to that is that the City of
24 Scottsdale has put in millions and millions of dollars
25 into essentially a back-end treatment process for the

1 effluent to make it very low in TDS. That's a benefit to
2 a golf course, because TDS buildup over time caused by
3 effluent can damage the grass of a golf course.

4 Q. For clarity of the record, TDS is?

5 A. Total dissolved solvents. But essentially what
6 you end up with is minerals on the ground that make it
7 difficult or more difficult for the grass to survive the
8 dry, and that's a natural occurrence from the saline
9 content in the influent water that then ends up making its
10 way through the treatment process and is included in the
11 effluent on the back end of a plant. But what they're
12 doing is putting in a process to greatly reduce or
13 eliminate the high saline content in their effluent.

14 Q. Now, this next question is about the location of
15 the plant. Where are the borders -- you're talking about
16 the City of Scottsdale taking the effluent from, I guess
17 you call it, the Tom -- how do you -- what's the name of
18 that road that Scottsdale Road becomes something else?

19 A. Tom Darlington?

20 Q. Okay. So that's where -- Tom Darlington is
21 where the City of Scottsdale hookup will be?

22 A. There's already an existing interconnect point
23 between our system and Scottsdale's system. That existing
24 point wouldn't change location.

25 Q. Is your plant located in Cave Creek or in --

1 A. Carefree.

2 Q. -- Carefree or in City of Scottsdale?

3 A. Carefree.

4 Q. Have there been any discussions as to
5 alternatives of having either Carefree or the City of
6 Scottsdale, as suggested by one of the public comments, to
7 have them take over the system in total, like through some
8 sort of --

9 A. Through a condemnation process?

10 Q. Yes.

11 A. No significant discussions of condemnation have
12 occurred, to my knowledge, between the parties. I think
13 at one point we may have briefly mentioned that concept in
14 one of our meetings with Carefree and the HOA, and my
15 recollection of the informal response was that we don't
16 want the headache.

17 Q. And from the City of Scottsdale or from
18 Carefree?

19 A. Carefree.

20 MS. WOOD: I don't have any further questions at
21 this time, Your Honor.

22 ACALJ NODES: All right. Thank you.

23 Dr. Doelle, do you have questions for
24 Mr. Sorensen?

25 DR. DOELLE: I just have a few.

1 CROSS-EXAMINATION

2

3 BY DR. DOELLE:

4 Q. Good afternoon, Mr. Sorensen. These are
5 questions in reference to your rejoinder that was filed
6 this Monday, I believe the 16th, relative to my situation.

7 The decision was made to not hire an expert on
8 dental technology; is that correct?

9 A. I'm sorry, could you restate the question?

10 Q. The Company made the decision to not hire an
11 expert on dental technology; am I correct in that
12 statement?

13 A. Yes, sir.

14 Q. And it seems as though it was an expense issue
15 primarily?

16 A. One that would, in turn, be passed on in our
17 view to the ratepayers, yes.

18 Q. Was there any attempt to find or hire an expert
19 on dental technology?

20 A. No, sir.

21 Q. Okay. The other question I have regards your
22 rebuttal in October. At that time you said that nobody,
23 no commercial customer has ever complained about
24 Engineering Bulletin No. 12. Is that a correct statement?

25 A. Could you direct me to the line in my testimony

1 where it states that?

2 Q. I don't think I have that in front of me. It
3 involved the ramifications with me because nobody else had
4 ever registered any complaints about Bulletin No. 12.
5 That's why I was being used.

6 MR. SHAPIRO: If I can help, Dr. Doelle, I think
7 the reference he's looking for is on page 6 in the Q and A
8 that begins on line 11 and concludes on line 16.

9 THE WITNESS: To my knowledge, other than your
10 concern over Engineering Bulletin 12, I don't recall other
11 complaints from commercial customers utilizing Engineering
12 Bulletin 12.

13 BY DR. DOELLE:

14 Q. So there's a relative satisfaction rate with
15 most of the commercial customers regarding Bulletin
16 No. 12?

17 A. To the best of my knowledge, yes.

18 Q. And then finally, there has been testimony on my
19 part and rebuttal on your part with problems in using
20 water design.

21 If I am the only customer impacted by this, what
22 problems do you see for using water usage for one and only
23 one customer, commercial customer, as a basis for rate
24 design?

25 A. On a very limited basis under those

1 circumstances, it would not be an overly burdensome
2 administrative challenge on a limited basis.

3 My question would come in the event you refused
4 to provide us a month or two or altogether stopped
5 providing us with your water bill, how would we be able to
6 charge you when we're authorized to charge you based upon
7 a water bill but we can't get that? That would be a
8 concern. Not stating or accusing that you would do that.
9 I just have to play the what-if game.

10 The question is then -- and I don't know how
11 this would be handled through the Commission -- what if
12 another customer subsequent to this order came along and
13 wants to have the same treatment? Does that mean now that
14 if they supply their water bills, do we then charge them
15 the same per-gallon rate? I don't know. And does that
16 negatively impact the Company from a revenue requirement
17 standpoint? That would be a concern.

18 What if I have a multiple water meter user that
19 had 20 water meters in their name for their property,
20 large property, but they only send me one of their water
21 bills? I don't have a way of verifying that that number
22 of water bills that we've been provided is complete.

23 And those instances don't necessarily apply in
24 your situation, I understand. But if we open this up
25 across all of our commercial customers, that would be one

1 of the concerns that I have from an administrative
2 perspective.

3 Q. So assuming you got water bills in a timely
4 fashion and they were accurate and there were a Commission
5 order that says it applies to only Dr. Doelle, you would
6 not have any argument with that?

7 A. And the amount of revenue was able to be
8 predicted so it's able to be -- I'm sorry, the amount of
9 water use is able then to be known, measurable,
10 predictable, to be incorporated into the rate design for
11 all parties filing testimony on that rate design so that
12 the Company is not financially disadvantaged, yes, I would
13 be okay with that.

14 DR. DOELLE: That completes my
15 cross-examination.

16 ACALJ NODES: Thank you.

17

18 EXAMINATION

19

20 BY ACALJ NODES:

21 Q. Mr. Sorensen, on the issue of Dr. Doelle's
22 situation, do you know, does Engineering Bulletin No. 12
23 treat dental offices differently than, say, medical
24 offices?

25 A. Just off the top of my head, I do not recall.

1 It's something I would think that we could pull up ADEQ or
2 I could have somebody look at that within the Company
3 during a break and see specifically if there's a
4 differential in treatment.

5 Q. Well, for purposes of your proposed rates in
6 this proceeding, the commercial rates that you're -- first
7 of all, you're proposing to get rid of all the special
8 rates that currently exist, correct?

9 A. Correct.

10 Q. And it's your, the Company's proposal to have a
11 commercial rate that's based on meter size that would be
12 applied to every customer?

13 A. No, sir, my recollection of the rate design
14 discussed in Mr. Bourassa's testimony is that Engineering
15 Bulletin 12 would still be utilized to come up with the
16 number of gallons per day that a particular commercial
17 establishment is assumed to have, and then that figure
18 derived from Engineering Bulletin 12 would be applied to
19 the Commission authorized rate; and the special rate
20 historically, I believe, that that rate applied was lower
21 than the standard commercial rate. And we are proposing
22 to have one single commercial rate, and then the variable
23 off of that would be Engineering Bulletin 12.

24 Q. Okay. And Engineering Bulletin 12 gives you
25 certain assumptions as to what types of businesses -- what

1 amounts of water would generally be expected from a
2 certain type of business?

3 A. That is correct, sir.

4 Q. Okay. Should I ask Mr. Bourassa about more
5 details about Engineering Bulletin 12 and how those --
6 would he have that kind of information to be able to
7 testify to?

8 A. I think -- I would think that particularly if
9 his testimony is on Monday, that between now and then we
10 will certainly make sure that he has that information.

11 Q. Okay. Because I mean it does seem to me, and
12 I'm not -- I'm a little hesitant to carve out Dr. Doelle
13 with a one, that you have one person, one customer on your
14 entire system that has some special rate. But on the
15 other hand, I can understand that if a modern dental
16 office essentially uses the same amount of water as, say,
17 a medical office and yet there's a huge disparity between
18 what Engineering Bulletin 12 assumes is the usage for
19 those two types of businesses -- so anyway, I guess as a
20 heads-up to Mr. Bourassa, if he'll maybe look into that a
21 little more, and maybe there's a way to somehow, without
22 carving out Dr. Doelle for some special rate, but rather
23 having a more updated assumption regarding his type of
24 business, and that would be probably more in line with
25 what the Company would want to see happen --

1 A. Uh-huh.

2 Q. -- and it doesn't create any administrative
3 headaches for you. Is that --

4 A. I think that's a very reasonable request.

5 Q. Okay. Why don't we -- I'll ask Mr. Bourassa
6 about something along those lines and see what he can come
7 up with.

8 Okay. Since I'm already talking, let me just
9 ask a couple more questions before we get to Mr. Torrey.

10 We heard about the 33 homesites, the issue that
11 Mr. Chenal has brought up about the refund amount. Does
12 the Company have any opposition to billing those
13 homeowners separately as opposed to billing the HOA and
14 having it then distributed? I mean is there any reason
15 why you wouldn't do that?

16 A. No. If the question is do we oppose it, no.
17 No, it should be and would be, I believe, revenue neutral
18 to the Company. It might be a slightly higher cost to the
19 Company to generate 32 additional bills and postage for
20 it, but I don't think that's anything in this instance
21 that we can't overcome if the Commission believes that
22 ultimately that is a better solution.

23 Q. Okay. There's no -- there's no operational
24 issue like these are -- it's not a mobile home park or
25 something like that?

1 A. No. These are residences, standard stand-alone
2 individual lot residences.

3 Q. Okay. And again, I'll ask for briefing on the
4 legal issue to make sure we have that squared away, but
5 the Company doesn't oppose some kind of refund mechanism
6 such as is set forth in -- is it your testimony, I
7 believe --

8 A. Yes.

9 Q. -- regarding the number of customers who were
10 previously on the system when the refunds were given and
11 are still on the system?

12 A. Yes.

13 Q. As long as there's some matching and it's
14 revenue neutral to the Company?

15 A. Yes, sir, we ran the report at the time or a
16 couple days before the testimony was filed, and that was
17 the then current figure.

18 Q. Okay. All right. Thank you.

19 ACALJ NODES: Mr. Torrey.

20 MR. TORREY: Thank you, Your Honor.

21

22 CROSS-EXAMINATION

23

24 BY MR. TORREY:

25 Q. Good afternoon, Mr. Sorensen. Not surprisingly,

1 I've got a few questions for you about the Boulders
2 Wastewater Treatment Plant.

3 A. Certainly.

4 Q. By now you're certainly familiar with the odor
5 issues that have been the source of the complaints from
6 the residents of the HOA in that area; is that correct?

7 A. Yes. Fortunately they're not -- fortunately or
8 unfortunately, they're not surprise comments. As I said,
9 we've been meeting with them monthly for over two years.

10 Q. And as a result of those meetings, the Company
11 has arrived at a plan to handle that odor issue by closing
12 Boulders Wastewater Treatment Plant; is that correct?

13 A. Yes, it was jointly developed with, as I said,
14 in meetings with the homeowners association
15 representatives as well as the officials from Carefree.

16 Q. And the plant itself is not the only piece of
17 infrastructure that would be either decommissioned or
18 removed as part of that plan; is that correct?

19 A. There is a small lift station on the plant
20 property that essentially lifts the sewage into the plant
21 from the collection line that brings it in, and that would
22 be decommissioned as well; and the resulting system would
23 be gravity flow essentially past or on the border of the
24 plant property as it stands today.

25 Q. Now, I want to make sure that I'm clear on this

1 thing. I want to make sure the record is clear on this.
2 If you have flows right now that have to be lifted to the
3 plant via this lift station, if you eliminate the lift
4 station, don't you have a problem with collection in the
5 line?

6 A. Very understandable question. And from
7 discussing that with our engineers, right now the
8 wastewater flows in and then comes down onto the property
9 to that lift station and then is lifted up to the plant.
10 The lift station is almost in like a little valley portion
11 of the property.

12 When you take out the plant and that lift
13 station, there's a little bit of pipe there that flows
14 down to that lift station. You would then, rather than
15 having the sewage come down that pipe, you would connect
16 the pipe that's in the street down the street to where
17 currently the overflow from the plant to Scottsdale goes.
18 So you're essentially putting in a gravity, disconnecting
19 gravity sewer to gravity sewer, and it would flow downhill
20 to Scottsdale.

21 Q. Now, there are other lift stations within the
22 system that are attached to the other homes within the
23 HOA; is that correct?

24 A. There are, my recollection, 14 other lift
25 stations throughout our service territory collection

1 system. For those who have been out to the Carefree area,
2 it's beautiful, but it's also varied terrain, and that
3 necessitates the use of lift stations. Those other 14
4 lift stations would not be eliminated.

5 Q. Those other lift stations, are they anywhere in
6 close proximity to the ones that are, well, the individual
7 lift station that's at issue to be removed under your
8 plan?

9 A. I believe the Indian Rock lift station is fairly
10 close-by the plant, but it would not be removed in this
11 plan. If not on the plant property, it's a couple streets
12 over; but it is certainly within the circle that you see
13 drawn up here.

14 I don't have any other lift stations that I've
15 pinpointed on that map. It's something I can look into
16 for you if you wish, but --

17 Q. How certain is the Company that it is this
18 particular lift station that is causing the odors or
19 primarily causing the odors as opposed to, for example,
20 the other Indian Rock lift station you just discussed?

21 MR. SHAPIRO: Excuse me, let me interpose an
22 objection that Mr. Torrey's question assumes facts that
23 I'm not aware of being in evidence. I don't think anybody
24 has testified or claimed that the lift station is the
25 cause of odors at the plant, at least not to my knowledge.

1 ACALJ NODES: Mr. Torrey.

2 MR. TORREY: I'll rephrase that.

3 BY MR. TORREY:

4 Q. How certain are you that the source of the odors
5 is the plant itself and is not associated with the lift
6 station?

7 A. I'm placing some reliance on third-party
8 engineers in what I'm saying, but I've also been out to
9 the plant and I've been to the Indian Rock lift station.
10 When you walk the exterior of the plant, there are
11 definitely odors there, particularly when you go along
12 that cart path that's 15 to 20 feet from the plant
13 property line and maybe 25 to 30 feet from the nearest
14 piece of operating machinery in the plant. There are
15 definitely odors emanating from the sewer plant. It's
16 operating normally, but there are odors associated with
17 the plant. That's coming from the treatment process.
18 That's coming from the treatment plant.

19 If the plant is not there and the lines are
20 buried, I guess I fail to see how you're going to have
21 odors emitting from something that isn't there.

22 The lift station, if you, which is out in front
23 of the plant, if you're standing with your back to the
24 plant, it's kind of out to the front and left of the
25 plant. That lift station, I don't believe has been

1 pointed to as the main cause of odors.

2 If you stand on top of the lift station or just
3 slightly downwind from the lift station, there's a slight
4 puff of odor coming from it, but that's literally standing
5 a few feet from it, both of which would be eliminated. So
6 I guess I'm just not sure how there's going to be odors
7 emanating from something that isn't there.

8 Q. No, I mean currently right now, if I understand
9 your testimony, you don't dispute that there is at least
10 some odor that can be coming from the lift station
11 associated with Boulders Wastewater Treatment Plant?

12 A. No, sir. To paraphrase our attorney earlier,
13 I'm not going to get up here and tell you we have an odor
14 complaint problem. As I've told Mr. Peterson and the
15 mayor during many of our meetings, I go out to the plant;
16 I'm not used to working in a wastewater treatment plant,
17 so my nose is, I would say, akin to what our customers'
18 noses would be like. And I can certainly smell odors
19 walking around that plant, in spite of us covering,
20 sealing buildings, installing an additional odor scrubber
21 on the plant, adding chemicals to the process to try and
22 reduce the odors.

23 We've gone through virtually everything that we
24 can do on that plant, and yes, there are still odors
25 there. If you had a normal setback, that would be

1 somewhere between 500 and 1,000 feet, depending upon what
2 you're able to negotiate with Maricopa County on a siting.
3 You probably wouldn't have the issue you do today if you
4 had that type of setback, but we don't. You're talking
5 about a legacy plant from the late '60s, early '70s, that
6 that just wasn't taken into consideration at that point in
7 time.

8 Q. I'm not sure that you answered my question which
9 was, the lift station that is associated with the Boulders
10 Wastewater Treatment Plant, you're not disputing that
11 there is at least some odor emanating from that, that lift
12 station; is that correct?

13 A. That's correct. I'm -- the plant, and as I
14 stated, if you stand on top of or a few feet away downwind
15 from that lift station, yeah, you can get a little bit of
16 an odor coming off of it.

17 Q. You mentioned the current setback requirements
18 of anywhere from 500 to 1,000 feet, depending on what you
19 can negotiate. Is that, based on your experience, is that
20 at least partially due to odor concerns?

21 A. Why they have setbacks?

22 Q. Yes.

23 A. Yes.

24 Q. And you've also mentioned that the Indian Rock
25 lift station is within the circle on the diagram behind

1 you. And so my question would be, even if you eliminate
2 the lift station associated with the Boulders Treatment
3 Plant and the plant itself, how certain are you that you
4 won't have odor issues that could be associated with the
5 Indian Rock lift station?

6 A. As I've stated before, and I believe also in the
7 prefiled testimony, you're not going to eliminate every
8 potential odor within any collection system. And when I
9 say collection system, I include the pipes, the manholes,
10 as well as the lift stations. There will be occasional
11 odors that will come, as I said, from the City of
12 Phoenix's lift stations, from their collection lines, from
13 their manholes, City of Scottsdale, Goodyear, you name it,
14 they're going to have those types of odors.

15 But what we're talking about here is the odors
16 emanating from the plant, and those are the ones that
17 we're trying to address through this agreement with the
18 Boulders Homeowners Association.

19 Q. Now, this total project to remove the treatment
20 plant and the associated lift station, do you have any
21 idea how long the entire process would take?

22 A. We have estimated at roughly twelve to fifteen
23 months. That is exclusive of any, I guess, unforeseen
24 circumstances from a regulatory process, DEQ, Maricopa
25 County, et cetera. If there's something they throw into

1 the process that we're not anticipating at this point
2 among our discussions with our engineers, that could
3 lengthen it, but that's the working plan right now.

4 Q. Let me try and narrow that down. You sort of
5 touched on the answer to my next question, but I want to
6 make sure the record is clear.

7 Specifically the construction process itself,
8 from the day that you receive whatever permits would be
9 necessary, how long would the, from the day that you break
10 dirt on this program to the date that it would be
11 finished, how long would that take?

12 A. From discussing that with our engineers, that
13 was the twelve, probably twelve months. We assume a
14 three-month cushion in that time frame. So that's where I
15 would come up with the twelve to fifteen months.

16 Q. And then you mentioned approvals, and of course,
17 based on your experience, there would need to be some
18 regulatory approvals at well; is that correct?

19 A. That's my understanding, based on discussions
20 with our engineers, that we would be working with DEQ and
21 Maricopa County in this process.

22 Q. And at this point, the Company hasn't applied
23 for any of those permits; is that correct?

24 A. No, sir, we have not, not before Commission
25 approval.

1 Q. And so at this time, you don't have an estimate
2 on when the start date for that twelve to fifteen-month
3 construction would be, correct?

4 A. No. No, we don't.

5 Q. You mentioned earlier that you had consulted
6 with some engineers. Do you have any idea what the
7 approximate cost is for just the construction aspects
8 alone?

9 MR. SHAPIRO: I'm sorry, could you clarify what
10 you mean by the construction aspects alone, Mr. Torrey?
11 You mean as opposed to the purchase of the capacity?

12 MR. TORREY: Right.

13 BY MR. TORREY:

14 Q. Setting aside the capacity or the legal fees
15 associated with the regulatory part, what is the cost of
16 the plant and removal of the plant itself?

17 MR. SHAPIRO: Thank you.

18 A. We have some rough estimates. I don't have
19 detailed design engineering costs that you would get
20 further along in the process, but the preliminary
21 estimates that we have based upon some quotes for the
22 remediation of the site, removing all the plant and the
23 tanks and pulling that out and restoring it to normal
24 land, I'll say developable land, was roughly a half
25 million dollars.

1 The anticipated cost of this is certainly, like
2 I said, purely an estimate from the engineers on the
3 downstream piping, would be in the range of \$800,000, and
4 then you would have the capacity of roughly \$700,000 that
5 would have to be purchased from the City of Scottsdale.
6 Those are, as I've stated, estimates.

7 Q. Now, you mentioned the agreement between the
8 Company and the Boulders HOA. None of those amounts are
9 in that agreement; is that correct?

10 A. I do not recall if the capacity amount was in
11 the agreement or not. It was attached, I believe, to
12 Mr. Peterson's testimony. If I have a chance to review
13 it, I could state so. But the other two costs, I do not
14 believe were specifically included in that agreement.

15 Q. Now, assuming that the Company got the
16 appropriate approvals from ADEQ, the County, and received
17 permission from the Commission, on the day that the
18 Company begins the actual removal process, how would the
19 Company intend to pay for that?

20 A. The payment for the interim construction
21 progress would come through, either through equity,
22 possibly debt, or some combination thereof.

23 Q. And once the, assuming that this was paid for
24 out of equity from shareholders, would the Company seek
25 reimbursement from ratepayers for the completion of the

1 project when it was done?

2 MR. SHAPIRO: I'm sorry, can I have the question
3 read back?

4 THE WITNESS: Please.

5 (The record was read by the Certified Reporter
6 as requested.)

7 MR. SHAPIRO: Thank you.

8 THE WITNESS: The agreement contemplates the
9 recovery mechanism being put in place and recovery
10 beginning once the project is completed, not once the
11 project is started. So at project completion, the
12 agreement contemplates that the recovery mechanism would
13 then go into place.

14 Does that answer your question?

15 BY MR. TORREY:

16 Q. Let me just follow up with that a little bit.
17 So are you saying that once the project was completed that
18 the Black Mountain Sewer would want to have its ratepayers
19 reimburse it for the expense associated with moving,
20 removing this plant?

21 A. Yes, and I probably failed to mention that there
22 would have to be a verification of invoices so that these
23 aren't phantom costs that we're just alleging were
24 incurred. We would have to supply the parties -- I
25 imagine Staff and RUCO and probably the Boulders

1 Homeowners Association would have interest in seeing those
2 invoices to verify that what we say was incurred was
3 actually in fact incurred.

4 Q. And now you've mentioned a recovery mechanism.
5 Within the agreement between the HOA and the Company, is
6 there a proposal or a specific proposal for a recovery
7 mechanism?

8 A. I believe Mr. Bourassa addresses a recovery
9 mechanism within his testimony, if I remember correctly.

10 Q. And the parties have agreed that Mr. Bourassa's
11 mechanism would be an appropriate method for Black
12 Mountain to recover?

13 A. I would like to look at the agreement itself and
14 see the specific language in there. I believe it talked
15 about recovery upon completion. I can't remember if it
16 specified a specific adjustment mechanism.

17 Q. But to the extent that the agreement mentions a
18 recovery mechanism, that would be the one that
19 Mr. Bourassa has prepared?

20 A. Yes.

21 Q. You mentioned the engineers, and we talked about
22 the elimination of the odors. I want to ask you
23 specifically, approximately how many houses are
24 immediately adjacent to the plant as it stands today?

25 A. Adjacent to the plant you would have technically

1 three homes, but that's just when you're talking about
2 adjacent. I believe Mr. Peterson has quantified the
3 number of homes within a 350-foot circle and a
4 thousand-foot circle. I thought at some point he had
5 quantified those. So that -- it may be best to --

6 Q. Now, I can ask Mr. Peterson about the number if
7 you don't have the number off the top of your head. But
8 if you do, do you recall approximately how many homes are
9 within that thousand-meter circle, thousand-foot circle?

10 A. I would state subject to check that you're
11 talking around a hundred or more.

12 Q. Now, there are a lot of customers that Black
13 Mountain serves that are not within that thousand-foot
14 circle; is that correct?

15 A. That is absolutely correct in the same vein as
16 there were a number of customers that were not within the
17 thousand foot circle of the CIE lift station that was
18 removed. But yes, that is absolutely true.

19 Q. And does Black Mountain contemplate that the
20 customers outside of that thousand-foot circle would also
21 be equally affected by whatever recovery was approved for
22 the recovery of this removal?

23 A. If you're asking whether the proposed recovery
24 mechanism was to be anticipated to be applied across all
25 customers of Black Mountain Sewer, yes, that is correct,

1 in the same vein that the Mayor of Carefree stood up
2 earlier today and gave public comment that the closure of
3 this facility will provide benefit to all the residents in
4 Carefree, not just those in the Boulders.

5 Q. The mayor has asserted that this removal of this
6 project would have a positive effect on all ratepayers
7 within that system. But has the Company taken any steps
8 to address with its ratepayers what their individual
9 opinions would be towards a recovery?

10 A. No, sir, outside of meeting with the homeowners
11 association and elected officials of the town, that my
12 understanding represent their voters and in the case of
13 the homeowners association they represent their
14 membership, no.

15 Q. And you would agree though that the Black
16 Mountain Sewer customer rolls are a more accurate
17 reflection of who may or may not agree with recovery than
18 just the representatives of an individual HOA; is that
19 right?

20 A. I'm sorry, could you restate or rephrase the
21 question?

22 Q. I'll restate it a little bit easier. If you
23 wanted to know who on the customer rolls of Black Mountain
24 approved or disapproved of paying for or reimbursing the
25 Company for the removal of this plant, you would agree

1 with me that you would get a more accurate answer from the
2 customers who are actually Black Mountain customers than
3 just sort of a sample that the HOA would represent?

4 A. I would most likely agree with your statement,
5 which is why early in this process I mentioned that we've
6 been meeting with the prior mayor and now Mayor Schwan
7 monthly or every other month, discussing not only this but
8 other issues, as well as sometimes members of town council
9 sometimes at these meetings as well because we realize the
10 fact that the Boulders Homeowners Association, while a
11 very material portion of our service territory, is not the
12 only customers in our service territory which is why we
13 did involve the mayor and members of council that do
14 represent a much broader spectrum of our customer base
15 with the belief that they speak not only for the Boulders,
16 but also for the wider population.

17 Q. And you would agree with me, wouldn't you, that
18 there are likely to be customers that are outside of that
19 thousand-foot circle that, despite the mayor's assertion,
20 may still feel the removal of this plant is not giving
21 them a direct benefit?

22 A. I understand that there are probably some
23 customers within any company service territory that
24 wouldn't agree, a hundred percent of the customers
25 wouldn't agree with everything that's done. But I think

1 this morning you also heard representation not only from
2 the mayor, as we've mentioned, Mayor Schwan, but also
3 representation from the Boulders South Homeowners
4 Association which is separate, my understanding, from
5 Boulders North which Mr. Peterson represents. Those
6 people are outside that thousand-foot circle. So you do
7 have additional population that is represented in favor of
8 this.

9 Q. If the Commission were to consider some sort of
10 a recovery mechanism but wanted to get a more accurate
11 count, so to speak, of who is in favor or against the
12 project and its recovery, would the Company be willing to
13 take steps such as, for example, a direct mailing or
14 something like that to its customers to sort of get a poll
15 type situation?

16 A. I would think that that type of situation would
17 be reasonable, if you're asking about a direct mailing or
18 a bill stuffer or something that would go along with the
19 bill, that that would be acceptable to the Company.

20 Q. At this time, Black Mountain doesn't have a
21 specific application before this Commission requesting the
22 closure of this plant; is that correct?

23 A. Outside of the agreement that the Company
24 executed and was submitted along with the Boulders
25 Homeowners Association testimony, no, there's no separate

1 application. But that agreement is, I would assume,
2 incorporated within their portion of this case. I'm not a
3 lawyer, so I can't speak --

4 Q. But as the representative --

5 A. As the Company representative, we believe that
6 we have entered into an agreement with one of the parties
7 to this case and that by reference to that agreement, it's
8 been submitted in the context of this rate case. So it is
9 before -- my believe is that it's before the Commission in
10 this case.

11 Q. That was my follow-up, is that by incorporating
12 that document, you, as the representative of the Company,
13 believe that the Company is asking this Commission for
14 permission to close that plant in conjunction with that
15 agreement you've entered into?

16 MR. SHAPIRO: I'm going to object. I think
17 that calls for a legal conclusion and the characterization
18 of the relief sought which is well stated in the
19 pleadings.

20 ACALJ NODES: Does the Company have to seek
21 Commission approval to close a plant?

22 MR. SHAPIRO: Not that I'm aware of. I think
23 that's another problem with Mr. Torrey's question is it
24 seems to presume a legal requirement that doesn't exist.

25 From the Company's perspective and the BHOA's

1 perspective, it's the cost recovery mechanism in the
2 settlement agreement that requires Commission approval;
3 and when Mr. Peterson filed his testimony, he asked the
4 Commission to issue the requisite approval for that
5 agreement to go forward. We then joined that request for
6 relief through our testimony.

7 ACALJ NODES: You would, however, have to get
8 approvals from DEQ and/or Maricopa County, correct?

9 MR. SHAPIRO: I think, as Mr. Sorensen
10 explained, there are certain regulatory approvals in
11 connection with the engineering, permitting, that stuff,
12 yes.

13

14 FURTHER EXAMINATION

15

16 BY ALJ NODES:

17 Q. Let me ask you, Mr. Sorensen -- if you want to
18 defer this to Mr. Bourassa, you may. Did the Company
19 consider the possibility, in lieu of a surcharge, simply
20 requesting an accounting order to defer costs for future
21 rate recovery as an alternative?

22 A. It is something that wasn't specifically -- an
23 accounting order wasn't specifically contemplated; but my
24 understanding of an accounting order is that it would
25 simply set aside costs, and it's usually, my

1 understanding, usually operating type expenses that are
2 occurring outside of the test year that are set aside to
3 be evaluated during the context of the next rate case for
4 a company. Perhaps I don't have the full appreciation for
5 everything else an accounting order can do, but that's my
6 understanding. And here these would not be operating
7 expenses, per se, but they would be capital expenses.

8 Q. Okay. Well, would it be better to direct the
9 accounting implications of such a procedure to
10 Mr. Bourassa?

11 A. The accounting implications, yes. The reasons
12 why we would not want to just have the evaluation of this
13 agreement and all the components of it, why we would not
14 want to defer all that until the next rate case and then
15 have the rationale or the reasons for taking a compliant
16 operating used and useful plant out of service
17 second-guessed by some future Commission not dealing with
18 the facts and circumstances in evidence today, the belief
19 is that would put undo risk upon the Company and its
20 shareholders.

21 Now, if the question is strictly on an
22 accounting perspective, Mr. Bourassa, I'm sure, would be
23 the best person to talk to on the debits and credits and
24 mechanisms of that adjuster.

25 Q. Okay. Would the Company be amenable to, if a

1 surcharge mechanism is approved, the Commission placing
2 some kind of cap on the amount of the surcharge that could
3 be imposed?

4 You know, the concern, I guess, is not knowing
5 more precisely what the ultimate costs would be --

6 A. Uh-huh.

7 Q. -- if the Commission were to approve a mechanism
8 without some kind of upper limit, then the potential
9 exists that the costs could be much greater than the
10 amounts that were assumed in this initial planning stage.

11 A. Right, and I would hope that the presumption
12 there is that the Company would not be looking to spend
13 more than is necessary to do what's being contemplated.
14 And with that assumption, my stated concern would be if
15 there's something unforeseen and that that occurs, then
16 that will expose, I guess at least temporarily, the
17 Company because that additional cost would then be
18 contemplated in the context of a next rate case.

19 The other question that I would certainly have
20 is how much of a cap is it, because if the cap is
21 \$300,000, then, you know, to make it an extremely low
22 number in this case, we know those costs are going to
23 exceed \$300,000. Putting a cap with that on it would
24 be -- that would not be, I guess, rational or acceptable
25 to the Company.

1 Q. Right, right, and I wasn't suggesting -- I was
2 suggesting more looking at the cap on the amount of the
3 surcharge, not necessarily the amount of the project.

4 A. Okay. And I'm sorry, I probably got into the
5 details because my -- my thought would be that the amount
6 of surcharge is going to be driven by the cost of the
7 project.

8 We wouldn't expect an adjuster of, you know, 15
9 dollars, and yet the costs that we incur only necessitate
10 a 10-dollar surcharge. We wouldn't be expecting to still
11 have a 15-dollar surcharge.

12 So my thought process was that it's the actual
13 cost of the project that then results in the surcharge,
14 and those costs would have to be verified by the
15 applicable parties.

16 Q. Right. And I guess what I was kind of throwing
17 out was, as I understand it, the projection is that the
18 surcharge is going to be in the 15 dollar range. The HOA
19 came back and said, well, we think it will be even lower
20 because of various other considerations. And if the
21 Commission were to say, okay, the surcharge mechanism is
22 acceptable; however, the surcharge shall be no greater
23 than 15 dollars, and then any true-up that occurred in the
24 next rate case could be undertaken, something along those
25 lines, so that it's not so much of just an open-ended,

1 just come in with your costs and you get it no matter
2 what.

3 I mean if there were a million dollar cost
4 overrun and the Commission has given you some blanket
5 pre-approval, and it ended up the surcharge was 25 dollars
6 instead of what was assumed on the front end, you can see
7 where the Commission might be concerned with that kind of
8 open-endedness.

9 A. I can understand where the Commission could have
10 that type of concern. You do have some moving parts and
11 some big assumptions, and you mentioned the HOA's
12 statement that it could be less, less than the 15 dollar
13 estimate.

14 Mr. Bourassa, I believe, may have created that
15 15 dollar estimate off of an assumption of 1.5 million net
16 costs. As I laid out to Staff on the stand here today,
17 the current estimates are, you know, 2 million. So that
18 would already be above. Now the question is, what do you
19 get for land? And sharing the gain on that land would
20 bring it down. I don't think anybody knows what the real
21 estate market is going to do, and so that would be putting
22 the Company at risk for real estate.

23 There may be some mechanisms in there to where,
24 you know, a larger portion of that gain then goes towards
25 the Company so it's not adversely impacted with regard to

1 the surcharge. I don't know.

2 And the other thing that I would make comment to
3 at this time is if that type of cap is contemplated, I
4 think perhaps accelerating a little bit of -- and if the
5 parties, because at this point I have not heard support
6 from Commission Staff or from RUCO. So at this point it
7 seems a little tenuous as to where the direction of this
8 agreement will go that both the Company and the HOA are
9 supporting.

10 If we had more support coming from those
11 parties, perhaps accelerating some of the preliminary
12 engineering work to firm up some of those numbers to give
13 people a little bit more surety as to caps or tighten up
14 what maximum exposure would be on the costs and in terms
15 of surcharge might be prudent.

16 Q. Well, I guess I was thinking in line of you're
17 familiar with a number of companies have had arsenic
18 surcharge mechanisms put into place, correct?

19 A. Yes, I'm aware that companies have done that.

20 Q. Where the companies come in after they've
21 incurred the costs, and they're allowed to recover through
22 a surcharge mechanism in the interim between rate cases,
23 capital costs plus a certain amount of operating costs.
24 But there's not -- the surcharge was not intended to be an
25 absolute immediate one for one recovery because it's

1 expected in the following rate case there will be a
2 true-up of sorts to reconcile the actual costs incurred
3 compared to, you know, what was granted in the surcharge.

4 Is that the type of mechanism that the Company,
5 something in that format that the Company is anticipating
6 would be approved, or --

7 A. I think what the Company was anticipating was
8 similar, except for the concept was the full amount of the
9 actual capital costs. But that we would defer seeking
10 recovery of incremental operating costs until the next
11 rate case.

12 Q. Well, would that include the additional
13 capacity?

14 A. No, the capacity is part of --

15 Q. Operating expenses?

16 A. No, the capacity itself is part of operating --
17 or is part of property plant and equipment. The charge
18 from Scottsdale per gallon treated -- because within the
19 Scottsdale agreement there's two components. One is the
20 six dollar purchase of capacity. Essentially it's almost
21 like a right.

22 Then you have for each thousand gallons of
23 sewage conveyed to them and they treat, there is a charge
24 for that; and that's roughly \$3.14 after our taxes and
25 environmental surcharges per thousand gallons.

1 Q. I understand that. But for rate-making
2 purposes, isn't the Scottsdale agreement treated as an
3 operating expense rather than included in rate base? Or
4 do I have that wrong? I thought that was the issue that
5 was brought up in the last case, I think as well as this
6 case.

7 A. The answer to that is yes and no. Please let me
8 explain, Judge. The original capacity purchased that was
9 dealt with in the last rate case, because it was funded
10 with debt, was treated for rate-making purposes as an
11 operating lease. But the capacity purchased since the
12 last rate case was funded with equity, and as such, is
13 being treated by the Company -- and I don't recall seeing
14 any other treatment within this. It's being treated as
15 property plant and equipment.

16 Q. Okay. All right. I'm sure I'll have some
17 questions for Mr. Bourassa on maybe the mechanism and how
18 he would see it actually working and that sort of thing.

19 ACALJ NODES: Let's see. We're going to take a
20 short break here.

21 Mr. Torrey, how much additional cross do you
22 believe you have, just for information?

23 MR. TORREY: Five minutes.

24 ACALJ NODES: Oh, okay. Well, let's take a
25 break anyway. We'll come back, finish up with cross, and

1 then do redirect after that. All right, ten minute-break.

2 (Recessed from 3:40 to 3:50 p.m.)

3 ACALJ NODES: Okay. Everybody ready?

4 Mr. Torrey.

5 MR. TORREY: Thank you, Your Honor.

6

7 CROSS-EXAMINATION (CONTINUED)

8

9 BY MR. TORREY:

10 Q. Mr. Sorensen, going back to the question that I
11 asked prior to the Judge's questions, the Company hadn't
12 made a separate filing regarding closure of the plant and
13 the associated issues; is that correct?

14 A. Correct.

15 Q. And in fact, the rate application itself doesn't
16 contain a request from the Company for the closure and the
17 mechanism and the approval of the agreement, correct?

18 A. The original filing? No, it does not.

19 Q. Those were issues that the intervenors brought
20 with them at the time of their admission to the case,
21 correct?

22 A. The intervenors who are our customers?

23 Q. Yes.

24 A. Yes.

25 Q. So specifically, what I need to know is, from

1 your perspective as a representative for the Company, is
2 the Company adopting the request of the intervenors?

3 A. I'm not quite sure of the legal implications of
4 the word "adopting" in this instance, but we have
5 signed -- I think it's in fact my signature, I think, on
6 the agreement with the Boulders Homeowners Association.
7 So what's set forth in that agreement is what we're
8 supporting. I mean I'm not adopting Mr. Peterson's
9 testimony. We're two different parties.

10 Q. Right. In terms of the request, the intervenors
11 have requested that the Commission approve the agreement
12 that the two parties have signed; would you agree with
13 that?

14 A. Sounds right, yes.

15 Q. In your nonlegal opinion, what is it that Black
16 Mountain would like to see in terms of that approval? Is
17 Black Mountain asking the Commission to make a
18 determination that it believes the agreement is in the
19 public interest and the Commission adopts specifically the
20 agreement and its terms, or is the Company asking more
21 along the lines of that the Commission simply not prevent
22 them from entering into the agreement?

23 A. No, we're more the former than the latter, which
24 is Commission approval of the agreement and its terms.

25 Q. In the event that there was a disagreement

1 between the homeowners association and Black Mountain
2 regarding the terms, what would you as the representative
3 of the Company, in your nonlegal opinion, what forum would
4 you want to see that heard in? Is the Company asking that
5 the Commission be the body that hears any disagreement?

6 MR. SHAPIRO: I'm going to object. The question
7 calls for a legal conclusion. Mr. Torrey is asking
8 Mr. Sorensen to speculate about where the Company may
9 bring a claim for breach of an agreement that hasn't been
10 breached. I think that just goes beyond the bounds of
11 appropriate guesswork in a question for a witness.

12 ACALJ NODES: Mr. Torrey.

13 MR. TORREY: My question is just where he would,
14 who he would want to be the party that would settle a
15 dispute. Is it the Commission as the body to turn to in
16 the event that agreement is entered into before this
17 Commission?

18 MR. SHAPIRO: Again, that calls for
19 interpretation of an agreement that has provisions
20 governing where disputes are resolved.

21 ACALJ NODES: I'll sustain the objection. I
22 think the agreement will speak for itself, and I guess any
23 breach thereof would be pursued at some subsequent period.

24 I did have a question though about adoption of
25 the agreement itself. The Commission wouldn't necessarily

1 have to rule on or pass on the entirety of the agreement
2 and find the agreement to be reasonable, would it? The
3 Company is really asking for the Commission to approve a
4 mechanism that would allow the Company to impose a
5 surcharge to recover the costs associated with the closure
6 of the plant; and if the Commission were to agree with
7 that and adopt some kind of mechanism along those lines,
8 that would satisfy the Company's concern as far as
9 Commission approval related to the agreement, correct?

10 THE WITNESS: I believe that --

11 ACALJ NODES: And I'm not asking you for your
12 legal conclusion on it. I'm just asking in general terms,
13 is that satisfactory to the Company?

14 THE WITNESS: I think it's probably two-fold.
15 One is the recovery mechanism that you referenced in your
16 statement, your question. The other piece to it that we
17 need to keep in mind is that this is a used and useful
18 asset in the provision of service today that is compliant.

19 We are asking in this approval essentially that
20 the Commission at some later time is not going to come
21 back and revisit and state that the Company should not
22 have taken that plant out of service.

23 ACALJ NODES: Okay. Well, because I thought I
24 understood Mr. Shapiro to say that no approval is required
25 for closure of a plant, and I'm not sure how I reconcile

1 those two statements. And maybe it's a legal question.

2 Mr. Shapiro, am I off base here with --

3 MR. SHAPIRO: No, Judge. No, and I think

4 Mr. Sorensen actually has some discussion of this in his
5 testimony. Based on past experience, I would agree with
6 you. The Commission typically does not approve a contract
7 itself; and when Mr. Peterson in his testimony asked for
8 approval, we clarified that we're not asking the
9 Commission to approve the entire agreement.

10 ACALJ NODES: Right.

11 MR. SHAPIRO: But there is a cost recovery
12 mechanism built into the agreement. That is the reason
13 that the Company thinks that the Commission needs to sign
14 off on that. And as Mr. Sorensen explained, in approving
15 that cost recovery mechanism, the Company is looking for a
16 finding that those costs, assuming that a reasonable
17 amount is incurred, are incurred for a reasonable and
18 prudent reason. So I think that's the two-fold thing that
19 Mr. Sorensen was viewing that one provision of the
20 agreement leading to.

21 The rest of the agreement itself does not
22 require Commission approval. It's a contract. And I
23 recall last year you made a decision that the Commission
24 approved in the Westcor matter. We had a similar
25 situation. We had a settlement agreement. It had

1 numerous provisions. You and the Commission focused on
2 approving the portion of the agreement that was within
3 their jurisdiction, i.e., the cost aspects of it, the
4 rate-making aspects. That's what the Company is asking
5 for here.

6 If we haven't explained that well enough, that
7 falls on me, and I apologize. We'll make sure we lay that
8 out better in the brief.

9 ACALJ NODES: All right. Thanks. Go ahead,
10 Mr. Torrey.

11 MR. TORREY: That clarifies what I was getting
12 at. So I have no further questions.

13

14 FURTHER EXAMINATION

15

16 BY ACALJ NODES:

17 Q. Well, Mr. Sorensen, I know this is an issue
18 that's ongoing between the Company and Staff related to
19 the affiliate structure and the allocation of costs from
20 the parent company down to the various operating
21 subsidiaries. Is that your understanding?

22 A. Yes. I know it's an area of dispute in this
23 case, and based upon Staff's first round of filing in
24 another case, it's there as well.

25 Q. In your testimony, you're somewhat critical of

1 Staff, Staff's position to question various expenses as to
2 whether those allocations are necessary for the provision
3 of utility service by Black Mountain Sewer. Is that a
4 fair representation of what your concern is?

5 A. I think it's a pretty fair -- there's some
6 concern and you say criticisms, and maybe that's the right
7 word. There's concern over the fact that we heard Staff,
8 we heard you, sir, and the Commissioners in our last rate
9 case for Black Mountain, as well as for Gold Canyon, you
10 know, unified statement, no affiliate profit. We heard
11 that loud and clear.

12 And so we've gone back and restructured. There
13 were no significant cost issues. It was the profit from
14 affiliates, if I recall correctly, that was truly at
15 issue.

16 We went back and restructured, made sure that we
17 were doing things on purely a cost model, but retaining
18 the benefits of the shared services model, which if I
19 remember correctly, Ms. Brown stated that that would
20 actually be bad if we went to something different than a
21 shared services model because it would most likely
22 increase, almost certainly increase costs for the
23 individual utilities if they had to provide services on a
24 stand-alone basis as opposed to a shared services model.

25 So we undertook reworking that shared services

1 model to only push down and allocate appropriate costs.
2 There were, upon Ms. Brown's audit of the parent costs,
3 roughly \$200,000 of costs that she excluded off the top
4 for things, you know, whether it be meals. I know she
5 used the example, there were some hockey tickets or some,
6 you know, ten-year service watches that were provided to
7 employees of the Company that she excluded, and we have no
8 debate or opposition to those costs, \$200,000 of the four
9 million or so APIF or ultimate parent company costs that
10 she excluded. We have no issue with that.

11 We understand that, while it may be business
12 expense that you choose or not to have, and the decision
13 was made to incur those costs, some of which were also for
14 charities. We understand from a rate-making perspective
15 that those should be properly excluded and have no dispute
16 whatsoever with Ms. Brown or Staff on that.

17 But there are other costs that are incurred at
18 that parent company level that I think do go to the
19 overall shared services model and do provide benefit to
20 all of the companies that APIF owns, whether that be
21 regulated utilities or whether that be wind farms to
22 generate electricity or whether that be hydroelectric
23 facilities. The overall parent costs are allocated to all
24 the companies, and what we're asking is that for a
25 rational portion or systematic portion of those costs to

1 be included in all the utilities that we operate, and that
2 cost allocated within the utilities. We think those are
3 properly included costs.

4 These things are for, you know, rent of the
5 corporate office building. They're for the overall audit
6 for the financial statements of the parent company, which,
7 you know, include all financial records of Black Mountain
8 Sewer, Litchfield Park Sewer Company, Bella Vista Water,
9 et cetera, all the utilities that we own in the State of
10 Arizona. They include the records of the utilities that
11 we own outside the State of Arizona, and they include the
12 books and records of the nonutilities that are owned
13 throughout North America.

14 Those audits provide surety, you know, financial
15 oversight on an annual basis. There are costs for tax,
16 the overall corporate tax records, and those costs would
17 be -- we ask that those be spread across all companies
18 that we own. The same goes for, you know, some of the
19 management expenses up at the parent level, office
20 expenses, depreciation on, you know, IT infrastructure
21 that supports all of our utilities, as well as some of the
22 expense related to shareholder communication at the parent
23 level. Those costs were all, we view, properly included
24 and do provide benefit for all entities that APIF owns,
25 not just the nonregulated ones and not just the regulated

1 ones, but all the companies.

2 Q. Okay. Well, in the first place, you identified
3 the Commission did adopt Staff's recommendation in the
4 last case to remove the clearly identified profit margin
5 related to various affiliated expenses, correct?

6 A. Yes, sir.

7 Q. But the Commission also indicated that it was
8 making no findings as to the reasonableness of that
9 affiliate structure, and in future cases, expected that
10 all affiliates' salaries, expenses and billings were to be
11 scrutinized to avoid potential abuses. Do you recall that
12 from the Commission's order?

13 A. Absolutely. And I took that to mean that
14 whenever you have -- and leave the profit out of it as we
15 have in this case. But whenever you have affiliate
16 transactions, by definition, by GAAP, by anything like
17 that, there is more scrutiny that would be applied to the
18 costs from an affiliate than from a third party typically.

19 Q. And that's because there's a certain amount of
20 inherent suspicion that exists, given that you don't have
21 an arm's-length negotiated contract for services when
22 you're dealing strictly with an affiliate company
23 providing those services, correct?

24 A. I would absolutely agree with that, and that's
25 why if you look at publicly-traded companies, if they have

1 affiliate transactions, those things are typically
2 disclosed. I can't quote you which SFAS rule, or whatever
3 that is, but those are disclosed affiliate transactions,
4 because of that presumption that you mentioned.

5 But the presumption does not mean rejection of
6 those costs, and it does not mean that those costs are
7 inappropriate; but it does mean that, as you pointed out
8 in your order, I believe, last time, that they should be
9 looked at, perhaps with a more watchful eye than
10 nonaffiliated transactions.

11 And we have no issue with Staff looking more
12 closely at those affiliated transactions in the context of
13 this rate case. I don't have any opposition to that.
14 They should.

15 But it seemed to me -- I apologize, sir. It
16 seemed to me that there was a rejection of some of these
17 costs just because they were affiliate costs, not because
18 they were inappropriate, not because they don't benefit
19 the end customer, but because they were affiliate costs;
20 and that's the concern. Without the cost recovery by the
21 utilities, then those benefits shouldn't be being received
22 by utility ratepayers. And that was my concern in
23 general.

24 Q. Okay. From Ms. Brown's perspective, if you were
25 in her place and she was directed by a Commission order to

1 undertake this scrutiny of future affiliate transactions,
2 it's reasonable that she would undertake an effort to try
3 to ferret out all costs, all claimed expenses that were
4 related to these affiliate transactions; wouldn't you
5 agree?

6 A. Absolutely. In fact, when we saw some of the
7 data requests coming in, we went back. We looked at that
8 order, because there were a lot of questions coming in
9 about affiliate transactions, and we tried to be very
10 clear in our filing that we had excluded all the profit
11 because that was one of the, like I said, a big issue in
12 the last rate case. There were others, but that was a big
13 issue. And we went back and we looked at the order, and
14 we saw the language that you are referring to. And that
15 made us understand how that's why there are so many data
16 requests coming in with regard to affiliate transactions.

17 So no, sir, I'll repeat myself. I understand
18 why she, because she viewed that, I would think -- I
19 shouldn't speak for her, and she can certainly speak for
20 herself when she's on the stand. I would think that she
21 looked at that and felt that she had been ordered, and
22 most rightfully so, to look very closely at the affiliate
23 transactions.

24 I didn't read that to mean that there was a
25 presumption that those affiliate transactions were wrong

1 and should be excluded, but that she should scrutinize
2 them probably more highly than she does just a normal
3 third-party cost.

4 Q. Well, isn't the standard that should be applied
5 what, given the relative size of a company, for example,
6 some kind of reasonable market-based comparison with a
7 similarly situated and sized utility as to what expenses
8 should be allowed or incurred if that company were
9 operating on a stand-alone basis? And I know in your
10 testimony you've cited to a number of things where you
11 believed that because of the affiliate structure, it has
12 actually resulted in cost savings compared to what the
13 company could do on a stand-alone basis.

14 A. Uh-huh.

15 Q. That's the type of analysis that I think is
16 appropriate, do you agree, that should be undertaken?
17 Because I think the concern is that if you have a large
18 corporate entity that has sophisticated, you know,
19 in-house, say, engineering, legal, accounting, office
20 space somewhere in a remote location, and those costs are
21 all allocated down to the operating company level, is it
22 really appropriate to allow all those types of expenses to
23 be incurred and paid by the captive monopoly utility
24 customers if a stand-alone entity would not typically need
25 those types of services to be provided by -- well, period.

1 I mean, it's kind of a rambling, more of a
2 statement, but I would ask for your response, if you
3 believe that's the standard that in general terms should
4 be used and applied by the Commission in assessing the
5 reasonableness of affiliate-imposed expenses?

6 A. I guess I'll try and answer it. Perhaps I'll
7 ramble. I apologize. I think it's probably a good data
8 point and probably one of several factors that you would
9 want to have and to take into consideration when you're
10 looking at those expenses.

11 So I agree, I agree that would be a data point
12 that you would want to have. And I'm sure Staff probably
13 has access to that probably better than I would, you know,
14 I think compared amongst our other utilities.

15 But the other side that has to also be looked at
16 is the benefit that those costs are supplied. And you
17 talk about, you know, the more high-powered, or whatever
18 you want to call it, the, you know, personnel, the office
19 facility, the tax work that's done. That provides a
20 benefit, particular, I think, to smaller utilities. I'm
21 sure we can all sit around and come up with other small
22 utilities that are more mom-and-pop oriented that without
23 the benefit of that management expertise or, you know,
24 which comes with the cost, but without that benefit of
25 management expertise, can get themselves into trouble with

1 regard to their utilities, whether that be financially,
2 whether that be operationally; and that doesn't, certainly
3 doesn't benefit the ratepayers.

4 Q. Well, I guess the question is, and I'm just kind
5 of grasping for an example, but there is an allowance for
6 office space locally related to the Company's operations,
7 correct?

8 A. Yes. And there are personnel that support the
9 Company's operations in Oakville, Ontario, as well as
10 here. The entire office does not support it. But there
11 are ten, twelve personnel that do support it. And if
12 those ten, twelve personnel were located here rather than
13 there, the office space that we have here would need to be
14 larger.

15 Q. I guess that's the question. Does a company the
16 size of Black Mountain Sewer Company really need services
17 such as strategic planning and the larger, you know,
18 in-house constant level of lawyers, accountants, and
19 engineers in-house when a smaller company presumably could
20 operate much less expensively by using those types of
21 services on just an as-needed basis and on a local level.
22 And I think that's where the -- I think every, you know, I
23 think everybody understands that shared services
24 structures can result in economies of scale that may very
25 well be beneficial; but if you take that to such an

1 extreme and services are being paid for by captive
2 customers that aren't really necessary for the provision
3 of service in a smaller utility system, then are those
4 affiliate expenses justified for purposes of rate
5 recovery?

6 And I think that's where, if I understand
7 Staff's testimony, that's where there's the struggle
8 between trying to say, yeah, there may be economies of
9 scale, but you're going to really have to justify some of
10 these types of expenses that are just automatically being
11 allocated to these relatively small systems. I mean 2,000
12 customers isn't minute by any means --

13 A. No.

14 Q. -- but it's not APS either, or even Arizona-
15 American.

16 A. Right.

17 Q. So if you can respond to that concern, I guess.

18 A. And certainly, Judge, it is a valid concern, and
19 what costs get allocated where, and are they necessary for
20 the provision of service? That's debatable.

21 But the minimum amount of service required is,
22 you know, is that what we want to be shooting for? I
23 would say you don't want to shoot for the minimum amount
24 of service. I think trying to provide good quality
25 service across the board is where we want to be. And --

1 Q. As long as it's not gold-plated service, and
2 that's where that tension lies, what's the reasonable
3 level in that area?

4 A. And that was going to be kind of part two of my
5 comment, which is you do have to balance that. Nobody
6 wants to be paying \$500 a month water and sewer rates, and
7 I throw that out as an exaggeration. But there is a level
8 there of gold-plating. I don't think that myself or
9 anybody else who works for a utility that has multiple
10 location, multiple jurisdiction assets is going to stand
11 up here and say using a shared service model gives them
12 justification for gold-plating or anything of that similar
13 nature.

14 Q. And I'm not ascribing any malicious intent or
15 trying to imply that's what you're doing.

16 A. No.

17 Q. I'm trying to reconcile this, you know, inherent
18 suspicion when you have all these expenses flowing down,
19 and, at least on the surface, may not appear to be
20 necessary for the provision of adequate and reliable
21 utility service, which is, you know, more or less the
22 standard that I think the Commission looks at, and trying
23 to evaluate in a rate case the reasonableness of those
24 claimed expenses.

25 A. I understand. And it may be, you know, if I can

1 read between the lines, it's getting into more of an art
2 than a science in what you're stating because there's a
3 range there. And as I mentioned, minimum service, there
4 are minimum service requirements for water pressure in a
5 water system. That's 20 pounds per square inch. I don't
6 think you would have any happy customers anywhere within
7 your system if you actually provided only 20 pounds per
8 square inch. We all know that people are going to want to
9 have water pressure that's adequate. Even though the
10 rules and regulations may state one thing, you're
11 providing additional benefit beyond minimum requirements
12 when you have water pressure 45, 50, 60 PSI which is more
13 of a normal situation.

14 Now, translating that operational adequacy and
15 incurrence above minimums, we look at administrative
16 costs, which is what these are. Are they above the
17 absolute bare minimum? Yeah, those would be above the
18 bare minimum of required service. But some of the costs
19 that you see up there at the parent company that are being
20 allocated down, if it was a stand-alone entity, some of
21 those costs are related to shareholder, you know, whether
22 it be trustees, shareholder communication, registrant
23 costs for being a publicly traded company. The benefit
24 that gets translated down to the utility is that the
25 utilities have better access to capital.

1 If, you know, saying whether it's a small or
2 medium size, 2,000 customer facility, if they have to go
3 out and raise capital on their own, if they were a
4 stand-alone entity, they would have to go out and employ
5 somebody to be able to do that. That's a specialized
6 field. It's not something that's readily available
7 within -- I'm sure if we went out and surveyed, you know,
8 1,500 to 2,500 customer connection utilities, whether they
9 have in-house expertise for raising capital as needed, I'm
10 not sure that that would be a capacity that in-house would
11 be readily available.

12 And so that's one of the benefits that you have
13 with a shared services model. That expertise, that skill
14 set is already there and able to be tapped into when
15 needed. And I think that, you know, particularly when
16 we're talking about a million and a half to two million
17 dollar project that's being requested that the Company
18 undertake, that capital has to be sourced. And that's an
19 example of a benefit of a shared services model.

20 Black Mountain, LIPSCO, Val Vista, they're not
21 being asked to shoulder that burden for that benefit alone
22 either. The costs at the corporate level are also
23 assigned or allocated over to nonutilities. It would
24 absolutely be unfair and improper if we only tried to
25 burden the utilities because they're regulated and you can

1 get cost recovery, only try to burden those regulated
2 utilities. Those costs are allocated over almost all of
3 the assets and entities that are owned by APIF. Not just
4 a selected few.

5 There's still, if you look at it from a top
6 level, because APIF is not a regulated utility itself,
7 there's also a very strong profit motive on their
8 standpoint to reduce costs. If you have a hydro facility,
9 the only way that you're going to increase your profit,
10 because you have long-term revenue contracts, is through
11 reducing costs. So that mentality of reducing costs, even
12 on these corporate costs that are pushed down, there's an
13 eye kept on minimizing the costs that are incurred.

14 Q. Right now, I can understand that in an
15 unregulated environment that would be the case. But if
16 the unregulated parent entity has a crop of regulated
17 entities through which it can simply allocate a number of
18 costs and expect dollar-for-dollar recovery, then I'm not
19 sure the same incentive exists for reducing costs. I mean
20 that's the danger, I guess, that lies with this type of
21 affiliate model.

22 A. I would probably be more inclined to agree if
23 all the costs -- if one of two things. Either, one, all
24 the costs for APIF were allocated to utilities, which is
25 not the case, and I think Mr. Bourassa can speak a little

1 better to the details; but maybe roughly 25 percent of the
2 total costs incurred are allocated to the Utility
3 Division. So the other three-quarters or the majority of
4 the costs are those that are borne by nonregulated
5 for-profit entities.

6 I would also be more concerned perhaps if all of
7 the entities that APIF owned were regulated because then
8 you wouldn't have that nonregulated portion of the
9 business that truly does have to watch every dime. And
10 I'm certainly not trying to imply that we don't, because
11 we have an interest in also reducing our costs as well,
12 because we know each time that we incur costs, we're
13 having to come back here and ask from our ratepayers for
14 recovery of those costs, and that doesn't make things easy
15 on us if we're asking for more and more.

16 So there is still an incentive to keep those
17 costs down and to keep a watchful eye on costs that are
18 incurred.

19 Q. Okay. Thank you. And, you know, this
20 discussion is, I think, useful for this kind of fleshing
21 out what some of the underlying issues are and perhaps
22 maybe to provide some context to what I think Staff is
23 attempting to do in this case; and, you know, I don't
24 think anybody is out to get the Company. It's just, there
25 needs to be a thorough examination of all the claimed

1 expenses and what the reasons are, and are they absolutely
2 necessary to provide service, because customers are
3 expecting to have that scrutiny undertaken so they don't
4 have to pay more than they should.

5 ACALJ NODES: Okay. Mr. Shapiro, do you have
6 redirect?

7 MR. SHAPIRO: I do, but I think Mr. Wakefield
8 would like an allowance to jump in and follow up some
9 other questions, and that's okay with me if it's okay with
10 you.

11 ACALJ NODES: Yes, please, go ahead. I'll go
12 around again, and then that way you can just do one
13 redirect.

14

15 FURTHER CROSS-EXAMINATION

16

17 BY MR. WAKEFIELD:

18 Q. Good afternoon, Mr. Sorensen, again. Just to
19 follow up on a couple points that you discussed with
20 Staff. You had indicated that there are 14 other lift
21 stations in the service territory other than the one that
22 would be shut down that's on the site of the Boulders
23 Treatment Plant.

24 A. Yes.

25 Q. How many of those 14 are in the Boulders

1 community, do you know?

2 A. I do not know beyond the Indian Rock lift
3 station how many are within the Boulders community.

4 Q. And the Indian Rock lift station, have there
5 been modifications to that lift station in the very recent
6 past?

7 A. Yes. Since the last rate case, there was
8 significant failure at that Indian Rock lift station, so
9 we went in and refurbished that lift station, brought all
10 the electrical up to code, I believe replaced pumps,
11 motors, significant work done, I believe somewhere in my
12 testimony in the range of \$190,000 to \$200,000, if I
13 remember correctly off the top of my head.

14 Q. Do you know, is that lift station totally
15 encased in concrete?

16 A. I believe it is. I mean there's a hatch to
17 access it.

18 Q. You had indicated that there are seven water and
19 sewer companies that you oversee here in Arizona.

20 A. Yes.

21 Q. One of those is Gold Canyon Sewer Company; is
22 that right?

23 A. That is correct.

24 Q. And my general recollection is that Gold Canyon
25 has also had issues with odor from its sewer plant and

1 sewer collection system in the past, and has taken steps
2 to remedy those concerns, and come in to seek rate
3 recovery for the costs that they've incurred; is that
4 correct?

5 A. That is correct.

6 Q. And when the Commission has considered recovery
7 of those costs, have they only permitted the Company to
8 recover those costs from the customers who were close
9 enough to the plant that they had suffered from the odor
10 problems, or did they allow recovery from all the
11 customers?

12 A. All the customers.

13 Q. The provision in the settlement agreement for
14 sharing the gain, do you expect that by the time the
15 recovery mechanism that you're asking the Commission to
16 provide is ready to go into effect, that the Company will
17 have necessarily sold the plant, the real estate, and that
18 you would know the amount of that gain, or is that gain
19 going to be an issue that's dealt with sort of further
20 down the road potentially?

21 A. I would imagine that we probably would not have
22 yet sold the land. That is a guess, maybe an educated
23 guess, just thinking about the timing. But that is
24 something that I think rightfully when that land is sold,
25 there should be, you know, the sharing of the gain that

1 we've mentioned and that that should also be essentially
2 then reduced from our rates.

3 Q. Okay.

4 ACALJ NODES: It would probably be somewhat
5 difficult to market the land until the plant's not there.
6 Build your dream home on the wastewater treatment plant.

7 THE WITNESS: This could all be yours.

8 MR. SHAPIRO: With or without lift station.

9 THE WITNESS: Yes, I would imagine, although I
10 will never underestimate the creativity or initiative of
11 real estate agents on what they can and cannot do.

12 ACALJ NODES: Okay. All right.

13 BY MR. WAKEFIELD:

14 Q. Just one final area. There was a lot of back
15 and forth that sort of culminated in your statement that
16 the Company is asking the Commission to approve the rate-
17 making aspect of the settlement agreement, or perhaps it
18 was Mr. Shapiro who brought us to that culmination.

19 Just so it's clear, the Company isn't willing to
20 proceed to shut down the plant unless they get that
21 approval from the Commission; is that correct?

22 A. Correct.

23 Q. Thank you.

24 MR. WAKEFIELD: Those are all my questions.

25 ACALJ NODES: Ms. Wood.

1 MS. WOOD: Thank you, Your Honor.

2

3 FURTHER CROSS-EXAMINATION

4

5 BY MS. WOOD:

6 Q. What period of time over which are you planning
7 on recovering through this cost recovery mechanism the
8 amount of money that you're spending on the construction?

9 A. Well, I think that's a detailed question that
10 probably is best served by Mr. Bourassa, but I would
11 imagine that it would be over, you know, the depreciable
12 life of the assets that are being put in place.

13 Q. And did the Company consider the possibility of
14 obtaining debt financing or issuing bonds or any other
15 ways of financing this project?

16 A. I think that's something that we will probably
17 look into as to how much, if any, of that plant can be
18 financed with debt.

19 Q. Isn't the Company actually in the process of,
20 according to Mr. Bourassa's testimony, procuring 63
21 million dollars of debt financing at this time on that
22 project?

23 MR. SHAPIRO: Can we clarify what company you're
24 speaking of, Ms. Wood?

25 MS. WOOD: Certainly. The parent company.

1 THE WITNESS: That is possible. I'm not
2 familiar with the details of the filing that they may have
3 been doing for that debt as far as what the specific
4 proceeds use is for.

5 BY MS. WOOD:

6 Q. And if at the conclusion of this project, if the
7 Commission approves the ACRM type mechanism, the cost
8 recovery mechanism that you're seeking and you go ahead
9 and make what your intended repairs are, but it doesn't
10 work, really the ratepayers are going to be running the
11 risk of that being a possibility, correct?

12 A. I suppose there could be that risk, but we try
13 to minimize that risk by hiring very competent, skilled
14 engineers that look at the situation and tell us yes, this
15 can be done, yes, this can't be done, or yes, this can be
16 done but you need to do X, Y and Z.

17 We've relied on experts such as McBride
18 Engineering who we are having initially look at the
19 situation, very skilled and very expert engineering
20 company; and we do place some reliance on them,
21 absolutely.

22 Q. But there is a possibility that those other lift
23 stations or some portion of the collection system might
24 still have odors attached to it and the ratepayers would
25 have to divvy up again?

1 A. Ma'am, I think I've tried to be steadfast in my
2 statement on this, is that other lift stations throughout
3 our collection system and lift stations throughout any
4 collection system, Phoenix or Scottsdale or Goodyear or
5 Queen Creek, lift stations can emit odors. It's an active
6 collection system, and odors can be emitted from there.
7 But I don't believe that the continued existence of or the
8 removal of the plant is necessarily going to affect those
9 lift stations.

10 If you're talking about some of those lift
11 stations that are on the other side on the western edge of
12 our territory, those lift stations are going to continue
13 on exactly as they are. We try to minimize odors coming
14 from those lift stations and from those manholes
15 throughout our collection system.

16 Q. One last question I have for you or one last
17 area. You have an increase in, I guess it's effective
18 July 1, 2009, in the charges by the City of Scottsdale
19 from \$2.53 per thousand gallons to \$2.60 per thousand
20 gallons, correct?

21 A. Yes, that's the base rate increase, yes.

22 Q. When was the last time it was increased prior to
23 July 1, 2009?

24 A. They adjust their rates every July 1st.
25 Typically it is a 6 percent adjustment. At least that's

1 what we've seen historically. This year they elected to
2 do a 3 percent rate adjustment.

3 Q. And that's something that you've been able to
4 anticipate and adjust for in your other rate applications?

5 A. We have in this rate application.

6 MS. WOOD: Nothing further. Thank you.

7 ACALJ NODES: Mr. Sorensen, the term of any
8 surcharge mechanism that's approved would in the following
9 rate case ultimately be folded into the appropriate plant
10 accounts and expense accounts, correct?

11 THE WITNESS: Correct, sir, absolutely. And I
12 guess I was referring to the initial setup, the
13 determination of the surcharge, what's period it's
14 designed to recover over, certainly acknowledging, as you
15 stated, that somewhere in that recovery period there will
16 be a rate case; and then you go through the normal rate-
17 making process, and I would envision that surcharge going
18 away at that point because it's just being incorporated
19 into the standard rates.

20 ACALJ NODES: Mr. Torrey, any further questions?

21 MR. TORREY: No, Your Honor.

22 ACALJ NODES: Mr. Shapiro.

23 (NEXT PAGE, PLEASE.)

24

25

1 REDIRECT EXAMINATION

2

3 BY MR. SHAPIRO:

4 Q. Mr. Sorensen, it's late, and I'm going to try to
5 run through this so we can all go home and not have to
6 bring you back, okay?

7 You're not representing to the Commission and
8 the parties through your testimony that if the plant
9 closure project goes forward successfully that there will
10 never be another odor anywhere in the Black Mountain Sewer
11 system, are you?

12 A. No, sir, I've tried to be consistent in my
13 comments on that, in that whenever you have an active
14 collection system, there are going to be occasional odors,
15 and the Company will continue to try and minimize and
16 address any odors that pop up from time to time, whether
17 that be through routine maintenance, preventive cleanings,
18 manhole sealings, et cetera; and when there's equipment
19 failures at lift stations, in which case odors can be
20 emitted, we work to address those as quickly and
21 efficiently as possible.

22 Q. Based on your expertise and experience and your
23 familiarity with the proposed plant closure project, what
24 is the risk that removal of the plant and the lift station
25 from the plant site will not result in odors coming from

1 that site being eliminated?

2 Did I lose you?

3 A. I think there were a few too many nots and
4 isn'ts.

5 Q. Okay.

6 A. Let me try and respond --

7 Q. Okay.

8 A. -- to my own attorney. If not, I'm sure you'll
9 correct me.

10 Q. I can rephrase it.

11 A. But to me and based upon the discussions we've
12 had with our engineers, when you remove the plant, when
13 you remove the lift station, you connect the lines via
14 gravity underground. There seems like very little
15 opportunity for odor emissions to occur from the plant
16 site that is no longer there.

17 Q. So the odors that are the problem at the plant
18 site come from the plant and the lift station?

19 A. Yes.

20 Q. And after the plant closure project, there will
21 be no plant and no lift station at the site?

22 A. Correct.

23 Q. And is it your impression from your discussions
24 and your familiarity with the testimony of the BHOA and
25 the public comment that you heard today, that these

1 customers have a problem with odors from the plant,
2 correct?

3 A. Yes, odors, and I did hear a few comments with
4 regard to noise as well.

5 Q. And I mean did you get the impression that these
6 people simply understand that this plant is here and they
7 don't want it there anymore, period?

8 A. I would say that's a pretty concise explanation
9 of what I heard.

10 Q. And did I understand from your response to
11 Mr. Wakefield's question that Black Mountain and Gold
12 Canyon Sewer Company spent investment capital to remedy
13 odor problems that were associated with facilities that
14 they acquired?

15 A. Yes.

16 Q. So those other problems were already there?

17 A. Yes.

18 Q. And you had to spend money to remediate a
19 problem that existed when you acquired the system?

20 A. That is correct.

21 Q. Has any party in this case or did any party in
22 that case object to the inclusion of those costs in rate
23 base?

24 A. With regard to odor control?

25 Q. The costs that you've incurred to remediate

1 odors that were associated with facilities that Algonquin
2 acquired?

3 A. No.

4 Q. Let me just kind of walk through and make sure
5 that we all understand and the record is clear. So during
6 the test year, Algonquin Power Income Fund allocated a
7 total of 4 million in costs across all of the facilities
8 that it owns, whether they be regulated or unregulated?

9 A. Approximately correct, yes.

10 Q. Approximately 4 million. Or did that 4 million,
11 did that go only to the regulated utilities, or was that
12 the amount that was allocated to all facilities?

13 A. All facilities.

14 Q. Okay. And Ms. Brown found that \$200,000 of
15 those costs were for things that she didn't think were
16 reasonable or prudent under any circumstances, correct?

17 A. Correct.

18 Q. Those are things that you mentioned like hockey
19 tickets, some reward watches, and those things?

20 A. Yes, service watches, that type of stuff. And,
21 you know, we understand that some of those costs in rate-
22 making are excludable, the same way that, you know, during
23 hot summer months here we will provide Gatorade to keep
24 our employees hydrated, working out in 115 degrees, but
25 those costs are also excluded. So that's just a

1 fundamental difference between business and regulated
2 rate -- and we accept that \$200,000 exclusion from the
3 gross cost that Ms. Brown stated.

4 Q. So you would agree that the starting test year
5 allocation pool then is roughly 3.8 million?

6 A. Yes, roughly.

7 Q. And of that total amount, less than \$34,000 was
8 the amount that was allocated to Black Mountain, correct?

9 A. Correct.

10 Q. And Black Mountain is asking for operating
11 expenses of about 1.7 million in this case?

12 A. Subject to check, yes.

13 Q. Subject to check, that \$34,000 is under two
14 percent of the Company's total operating expenses,
15 correct?

16 A. Correct.

17 Q. You are a participant or a board member of the
18 Water Utility Association of Arizona?

19 A. Yes.

20 Q. Just in your general opinion and your
21 familiarity, how are the smaller utilities in Arizona
22 doing these days as companies? Are they doing well? Are
23 they doing poorly?

24 A. We have a wide-ranging member at the WAA, and
25 there are, I would say, a good number of concerned utility

1 owners of small systems. They are concerned with, you
2 know, being able to fund their operations. They're
3 concerned with new rules and regulations that come down,
4 you know, groundwater rules and that. And I would say in
5 general, they're struggling, particularly when you take
6 into consideration the general economy and housing and
7 growth. I would say, in general, they're struggling.
8 There are some that are doing fine, but in general,
9 they're struggling.

10 Q. And to be clear, the Company is not opposing
11 Staff's scrutiny of these costs. It's disputing the
12 results of Staff's scrutiny, correct?

13 A. Correct. Correct.

14 Q. There were some questions about the gain on sale
15 and how that would come in. Just assume with me for
16 purposes of this question that the recovery mechanism was
17 authorized and began on January 1 of 2011. Are you with
18 me?

19 A. (Nods head.)

20 Q. If six months later the BHOA and the Company
21 were successful in selling the property, would you be
22 opposed to having that adjustment mechanism adjust again
23 so that those net proceeds could then lower the amount of
24 the surcharge?

25 A. No. I think that would be -- I think that would

1 be fair and what would be contemplated.

2 Q. So you would see this surcharge as first
3 allowing you to recover on and of your costs and then
4 allowing that to be further adjusted to the benefit of the
5 ratepayers if the land can be sold at a gain?

6 A. Yes.

7 Q. And there is a provision in the agreement with
8 the BHOA that requires the Company to complete the project
9 within a definite time frame, correct?

10 A. There is. I believe it states within 15 months.
11 There's some exceptions with regard to delays caused by
12 regulatory bodies. I can't speak for ADEQ or Maricopa
13 County, but yes.

14 Q. And all of the negotiations that led to the
15 settlement agreement, those began with the homeowners
16 association after they intervened in the rate case and
17 sought the relief that they additionally sought?

18 A. After their intervention in this rate case?

19 Q. Yes.

20 A. There were discussions with the homeowners
21 association regarding this prior to their intervention.
22 As I've mentioned, we've been meeting with the HOA and
23 city representatives, including the mayor and some members
24 of council, for two, I want to say two to three years.

25 Q. Let me stop you, Mr. Sorensen, because I

1 confused you. Did Mr. Bourassa and your legal advisers
2 get involved and did you begin to incur rate case expense
3 related to the BHOA's intervention before they intervened?

4 A. No, I don't believe so. I think it was more
5 what I would refer to as business discussions or, in some
6 instances, what we've been trying to do for the past two
7 or three years, which is better customer relations and
8 communication, and this arose from that communication.

9 Q. Would it be fair to say then that the increased
10 amount of rate case expense that the Company seeks related
11 to the BHOA intervention was all incurred in the context
12 of this rate case?

13 A. Yes.

14 Q. And are you aware of any odor problems
15 associated with any of the Company's 14 lift stations?

16 A. Again, I'll try to be consistent in my answer,
17 in that if you're talking about persistent odor problems,
18 I'm not aware of persistent odor problems. Ones that
19 happen on occasion, yes. As I've stated before, it's an
20 active collection system, and there will be odors on
21 occasion from a lift station or from a manhole, and we try
22 to rectify those and remediate those as soon as possible.

23 Q. Well, like you, Mr. Sorensen, I'll try to be
24 careful with my words and the use of the term "problem."
25 Is it fair to say that the Company's position is not that

1 it has an odor problem at the plant so much as the plant
2 is just in a bad place and can't help but emit odors in
3 its ordinary operation?

4 A. That would be correct, and that's, yeah, I guess
5 exemplified by a couple of things. One is that it is in
6 compliance with all rules and regulations, but it's also
7 exemplified by another, which is that you've got
8 residences literally on the opposite side of the cart path
9 from each other, between the residence and the plant. If
10 you go out there, you walk down the cart path, and for
11 anybody who has played golf, you know those things aren't
12 too wide. On either side of the cart path, one side you
13 have a house; the other side you have a plant. It is a
14 geographical problem right now.

15 Q. And a couple of the customers that made public
16 comment this morning stated that the Company has done
17 everything it can to reduce or eliminate the odors from
18 the plant. Do you believe that's the case?

19 A. I believe probably it has done everything that
20 is reasonably possible. I have made the, I'll call it
21 offhand comment to Mr. Peterson before that we have done
22 everything short of bubbling the facility, and I don't
23 even know if that would be possible; but I don't think
24 there's any other realistic solution to this situation
25 than the one that we've proposed with the HOA.

1 Q. And for Mr. Bourassa who is confused, you're
2 speaking of some type of futuristic glass plate over it
3 like in the Isaac Asimov books, right?

4 A. Yes.

5 Q. Does the Company need the sequencing batch
6 reactor that's off-line and has been off-line for a couple
7 weeks, does the Company need that back on-line for the
8 proper function of its system?

9 A. Yes. The reason I state that is you want some
10 internal redundancy aspects for your treatment plant, and
11 I think what you're seeing is one of the specific reasons
12 that you have for four trains there rather than three, is
13 because you do have the occasional one that goes out.
14 There's a problem that needs to be rectified, and so
15 you're still able to treat the 120,000 gallons per day
16 that the plant is supposed to be able to treat.

17 MR. SHAPIRO: Thank you very much.

18 ACALJ NODES: Mr. Wakefield, anything else?

19 MR. WAKEFIELD: No.

20 ACALJ NODES: Ms. Wood.

21 MS. WOOD: No.

22 ACALJ NODES: I apologize, I skipped over you
23 Dr. Doelle.

24 DR. DOELLE: I don't have any comments anyway.

25 ACALJ NODES: Mr. Torrey.

1 MR. TORREY: No, Your Honor.

2 ACALJ NODES: All right. I guess you're
3 finished, Mr. Sorensen. Thank you for your testimony.
4 You are excused.

5 Well, we're going to resume next Monday morning
6 at 9:30; and Mr. Peterson, I think, we gave him a date
7 certain.

8 MR. SHAPIRO: I thought it was Mr. Kincaid.

9 ACALJ NODES: Oh, was it? Okay.

10 MR. SHAPIRO: I think the Town's witness
11 expected to go first thing Monday morning.

12 ACALJ NODES: Mr. Kincaid is at 9:30, and then
13 Mr. Bourassa will follow Mr. Kincaid, and then
14 subsequently Mr. Peterson, and then we'll do RUCO and
15 Staff.

16 MR. SHAPIRO: If I could, Your Honor, let us
17 report back to you. Yesterday at the prehearing you asked
18 us to discuss briefing dates.

19 ACALJ NODES: Yes.

20 MR. SHAPIRO: Counsel for RUCO has requested
21 that we get this done before the Christmas holiday. And
22 the Company inquired, and we will pay to expedite the
23 transcripts. The transcripts will be available by 11/30,
24 and the parties will file their opening brief on December
25 11th and their reply brief on December 21st, if I have

1 that correct. Mr. Torrey, Ms. Wood and Mr. Wakefield, if
2 I have it incorrect, I hope they'll correct me.

3 ACALJ NODES: We'll firm everything up at the
4 end of the hearing, in any event.

5 Mr. Wakefield, did you have something?

6 MR. WAKEFIELD: I seem to recall that the
7 Commission's hearing calendar indicates that we'll start
8 at 10:00 on Monday. I don't have any problem starting at
9 9:30; but if we have a notice issue about starting at
10 9:30, I wanted to bring that to your attention.

11 ACALJ NODES: Oh, it does say 10:00?

12 MR. WAKEFIELD: That's my recollection, but I
13 could be wrong on that.

14 ACALJ NODES: Okay. Well, whatever the calendar
15 says is when it is. I just -- I don't know off the top of
16 my head.

17 MR. WAKEFIELD: Thank you.

18 ACALJ NODES: Let's go off the record a moment.

19 (Off the record from 4:55 to 4:56 p.m.)

20 ACALJ NODES: We are adjourned until Monday at
21 either 9:30 or 10:00, whatever the official calendar said.
22 I thought I made it 9:30, but I could be wrong.

23 (The proceedings recessed at 4:56 p.m.)

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1 STATE OF ARIZONA)
2) ss.
3 COUNTY OF MARICOPA)
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7 I, GARY W. HILL, R.P.R., Certified Reporter
8 No. 50812, for the State of Arizona, do hereby certify
9 that the foregoing printed pages constitute a full, true
10 and accurate transcript of the proceedings had in the
11 foregoing matter, all done to the best of my skill and
12 ability.
13

14 WITNESS my hand this 23rd day of November,
15 2009.
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21 Gary W. Hill, R.P.R.
22 Certified Reporter, No. 50812
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